

TERMS OF REFERENCE

Principal Coordinator for the Jamaican ICT/BPO Industry Secretariat

GENERAL FUNCTIONS

The Contractor will provide high level, executive leadership and coordination of the activities promulgated by all Government of Jamaica (GOJ) agencies in respect of the Information and Communication Technology (ICT)/ Business Process Outsourcing (BPO) Industry. The Principal Coordinator of the ICT/BPO Secretariat will ensure that the Government's expectations for the ICT/BPO Secretariat are achieved, and where this is not possible, the Principal Coordinator will be strategically positioned to identify the areas of concern beforehand so that mitigating measures can be put in place.

The Principal Coordinator of the ICT/BPO Secretariat (PC) will be required to coordinate the functions of all GOJ agencies and private interests in the sector to deliver the projected sustainable growth in Jamaica's ICT/BPO Industry. The PC will navigate through the myriad of issues in respect of the ICT/BPO Industry such as:

1. maintaining regional market share.
2. attracting higher-value ICT/BPO companies to Jamaica.
3. developing more ICT-ready physical space.
4. training personnel to take up positions within the sector.

Specifically, the Principal Coordinator will:

- Conduct review and provide preliminary opinions on existing plans, studies, projections of the ICT/BPO Industry.
- Meet all of the Government agencies with a footprint in the ICT/BPO Industry and develop a full map of all existing, planned and failed initiatives in the ICT/BPO Industry.
- Review the existing programmes and plans of all GOJ agencies in the ICT/BPO Industry and determine areas of duplication.
- Conduct site visits of all of the companies in the ICT/BPO Industry and, with the assistance of the Business Process Industry Association of Jamaica, obtain a firsthand view of the concerns of these interests.

Objectives

The specific objectives of this engagement are to increase:

- (a) foreign direct investment in the ICT/BPO Industry
- (b) the physical infrastructure
- (c) level of employment in the industry, and
- (d) the number of BPO companies operating in Jamaica.

Principal Duties And Responsibilities

- Review existing plans, reports and studies performed on the Jamaican ICT/BPO Industry.
- Advise Senior Government officials of critical success factors impacting the viability, sustained growth and development of the Jamaican ICT/BPO Industry.
- Coordinate the activities of all Government agencies in respect of the Jamaican ICT/BPO Sectors, including, but not limited to:
 - JAMPRO
 - Factories Corporation of Jamaica
 - Port Authority of Jamaica
 - HEART Trust/NTA
 - Development Bank of Jamaica Limited

- Business Process Industry Association of Jamaica
 - Ministry of Finance and Planning (MoFP)
 - Ministry of Industry, Investment, and Commerce
 - Ministry of Science, Technology, Energy and Mining
 - Ministry of Education
 - Ministry of National Security
 - Any other agency as determined important to the ICT/BPO Industry
- Set and revise annual targets, in collaboration with Government agencies, for (1) employment, (2) new ICT/BPO companies, (3) expanded offerings into high-value, Knowledge Process Outsourcing services and (4) construction of additional physical infrastructure to support the growth of the Jamaican ICT/BPO Industry.
 - Recommend, where necessary, amendments to existing legislation and/or policies to make the Jamaican environment more attractive to newly targeted entrants.
 - In collaboration with strategic partners in the Government and private sector, determine:
 - the conditions which need to be in place to optimize the potential of the industry;
 - the required resources, organizational structures, inputs, policies and legislation to support the sustained growth and development of the Jamaican ICT/BPO Industry;
 - lessons learned in other jurisdictions which have led to retrenchment and downsizing.
 - Revise outlook periodically for the Jamaican ICT/BPO Industry to reflect global shifts in the Industry, introduction of new technologies, best practices or developments that could affect the local Industry.
 - Chair a Steering Committee, comprised of key stakeholders in the Jamaican ICT/BPO Industry, which will focus on the following areas of strategic importance:
 - Marketing/ Strategic Positioning of the Jamaican ICT/BPO Industry
 - Physical Space/ Building Inventory,
 - Access to affordable development financing
 - Staffing/Human Resource matters
 - Security/ Cybercrimes
 - Incentives for investors and BPO companies operating in Jamaica
 - Manage and monitor Jamaica's progress or lack thereof towards the achievement of predefined targets.
 - Set reasonable, measurable growth targets and intermediary goals along with a mechanism to collect data about the performance of the sector. This data must be able to be applied towards the future development and positioning of the industry. Targets for employment across the spectrum of value added services within the ICT/BPO industry and new companies to enter the Jamaican environment must be realistic. A special emphasis will be placed on the development on the higher spectrum of the ICT/BPO Industry, specifically being knowledge process outsourcing opportunities in medical, legal, engineering and other professional disciplines
 - Lead the national strategy as to the positioning of the country in the global ICT/BPO marketplace.
 - Work with JAMPRO to monitor and report on investment promotion activities within the ICT/BPO Industry, being the central point of contact for all ICT/BPO companies. Also, develop new and innovative strategies to attract new companies to Jamaica;
 - Work with the Ministries of National Security and Science, Technology, Energy and Mining to provide necessary framework for security of data, cyber crime enforcement for ICT/BPO firms.

- Work with Heart Trust/NTA for the creation of a skills database which tracks all of the employees within the sector, and provides for a safe working environment for these workers (safe commuting at night, employee conditions, etc).
- Work with the Factories Corporation of Jamaica and other providers of physical space and technological infrastructure to ensure that there is ICT-ready space available to house new entrants into the marketplace.
- Liaise with the Business Processing Industry Association of Jamaica to ensure that the practitioners within the industry have a forum to ventilate issues which may arise.

Reports

The PC will provide monthly progress reports on activities completed under this Terms of Reference to the Minister of Finance and Planning and the Financial Secretary. This report will include, but will not be limited to:

- Executive Review of the industry.
- Performance of the ICT/BPO Industry in respect of the achievement of intermediate targets and objectives.
- Outlook for the ICT/BPO Industry.
- Areas of concern and challenges facing the industry.
- Recommendations and proposed solutions.
- Any other information which, in the opinion of the PC, requires ventilation or support at the level of the Minister.

In addition to the monthly reports, the PC will prepare an Annual Report of activities completed under this Terms of Reference, which will emphasise the headline goals of:

- employment,
- additional physical infrastructure
- and new entrants (companies and contracts) in the Jamaican ICT/BPO Industry.

Performance Criteria

The deliverables under this Terms of Reference are as follows:

- Prepare a National ICT/BPO Policy that will streamline, coordinate and guide the growth and development of the Industry.
- Prepare monthly and annual progress report on the performance of the Industry.
- Provide data from companies operating in the industry in real time. The ICT/BPO Secretariat will be the chief repository for information about the Industry. Instead of wading through multiple agencies for “mission critical” data, this will be available from the ICT/BPO Secretariat.
- Design a public education programme to attract young professionals with a high skillset to the Industry, and steer these individuals towards the high-end, KPO initiatives.

Qualifications and Experience

- Public profile and reputation as a change agent
- **A minimum of twenty (20) years experience at the executive level**
- Project Management Certification

Progress Reports

- The ability to communicate effectively at all levels in both oral and written forms;
- The ability to analyse potential projects for financial viability;

- Computer literacy;
- The ability to meet deadlines consistently.

General Provisions

1.1. The Contractor shall ensure that the Service is performed with due diligence, efficiency and economy and that a high degree of reasonable skill, care and judgment, practices, methods and techniques, are employed in the execution of the Services.

1.2. The Contractor understands and agrees that MoFP and the Government will be relying on this intervention to lead to the sustained growth and development of the ICT/BPO Industry, and specifically in the achievement of employment targets and the addition of new entrants into the Jamaican ICT/BPO Industry. In addition, the Principal Coordinator will serve to eliminate duplicity of roles, streamline the GOJ's policies and programmes in respect of the ICT/BPO Industry and provide an avenue for all of the issues being experienced by practitioners with the industry to be properly ventilated.

1.3. The Principal Coordinator is responsible for managing the programme of activities of the ICT/BPO Secretariat and its personnel and will hold itself responsible for any and all acts, claims, costs, losses or omission of any such personnel.

2. Duration of the Agreement

2.1. This Agreement shall take effect on the date hereof and shall continue for a period of two (2) years (or such other period as the parties may agree), subject to earlier termination in accordance with the provisions of this Agreement.

3. Consideration

3.1. In consideration for the services of the Principal Coordinator of the ICT/BPO Secretariat, MoFP agrees to pay the Contractor the sum of two hundred thousand United States dollars (USD\$200,000) payable in equal instalments over a 24 month period, or eight thousand three hundred and thirty-three United States Dollars and thirty three cents (USD\$8,333.33) per month for twenty-four months.

4. Indemnity

4.1. The Contractor shall indemnify and hold MoFP harmless from and against all suits, demand, losses, claims, liabilities costs and expenses including reasonable attorneys' fees incurred by MoFP arising out of the breach or failure by the Contractor to perform its obligations under this Agreement, or which would otherwise result from or arise as a consequence of any act or omission whether negligent or otherwise of the Contractor and which do not arise as a result of MoFP's gross negligence, or willful misconduct.

5. Termination

5.1. This Agreement shall terminate automatically upon the expiration of one hundred and twenty (120) days of the date of this Agreement, unless there are still resolved matters or as agreed by the parties to this Agreement.

5.2. Either party (the "Aggrieved Party") shall be entitled to terminate this Agreement by giving to the other party (the "Defaulting Party") not less than seven (7) days' notice in writing

if:

- (a) the Defaulting Party shall fail to make any payment due under this Agreement by the due date thereof;
- (b) the Defaulting Party shall commit a breach of this Agreement (other than a breach falling under sub-paragraph (a) above), and in the case of a breach capable of being remedied, shall fail to remedy such breach within ten (10) days of being required to do so pursuant to a written notice from the Aggrieved Party;
- (c) (i) a receiver or administrator or similar officer shall be appointed over the whole or any part of the assets of the Defaulting Party; or (ii) the Defaulting Party shall become insolvent; or (iii) the Defaulting Party shall propose any compromise or arrangement with its creditors; or (iv) the Defaulting Party shall pass a resolution to be wound-up; or (v) the Defaulting Party has ceased to trade; or (vi) a winding-up petition has been filed against the Defaulting Party and same is not discharged or withdrawn within thirty (30) days.

6. Notices

6.1. Any notice or other document to be given to a party shall be in writing and shall be sent to the address of the parties to this agreement as set out in above (for the attention of the Managing Director) or such other address as the parties to this agreement may designate by notice given in accordance with the provision of this clause. Any such notice may be delivered personally or by facsimile transmission or by prepaid courier confirmed as received and shall be deemed to be served when it is received or delivered at the recipient's address, provided that it is delivered between the hours of 8.30 am and 4.30 pm on a Business Day and if it is not so delivered on the next Business Day.

7. Disputes

7.1. If any dispute shall arise between the parties hereto or any of them concerning the construction of this Agreement or their respective rights or liabilities arising hereunder it shall first be referred to the managing directors of the parties. If the dispute is not resolved by these persons then the matter shall be referred to the Dispute Resolution Foundation and if still not resolved, a single arbitrator to be appointed by the President of the Jamaica Bar Association. The decision of such arbitrator shall be final and binding on the parties and such arbitration shall in all respects be subject to the provisions of the Arbitration Act or any statutory modification or amendment thereof for the time being in force.

8. Confidentiality

8.1. The Contractor shall maintain the confidentiality of all documents deemed Secret, Classified or Confidential and not disclose any information or documents of a sensitive matter furnished by or on behalf of MoFP or any other party in connection with this Agreement, to any person other than persons employed by the Contractor in the performance of this Agreement. Disclosure to any such employed person shall be made in confidence and shall extend only as far as necessary the purposes of such performance.

- 8.2. The provisions clause 8.1 hereof shall not apply to information which:
- a) was already in the possession of the Contractor at the date of this Agreement;
 - b) was in the public domain at the time of disclosure to it hereunder or subsequently became part of the public domain through no fault of the Contractor,
 - c) was lawfully received by the Contractor from an independent source (other than its affiliates, or its directors, officers, employees, agents, or contractors) which was not subject to a confidentiality agreement; or
 - d) is legally required to be disclosed (i) to a court or governmental agency under applicable laws or regulations or (ii) to a private party pursuant to a valid subpoena or other lawful process (as provided more fully below).

9. Miscellaneous

9.1. This Agreement constitutes the entire agreement between the parties hereto with respect to the matters dealt with therein and supersedes any previous agreement between the parties hereto in relation to such matters. Each of the parties hereto hereby acknowledges that in entering into this Agreement, it has not relied on any representation or warranty save as expressly set out herein or in any document referred to herein.

9.2. No variation of this Agreement shall be valid or effective unless made by one or more instruments in writing signed by such of the parties hereto which would be affected by such variation.

9.3. No failure to exercise and no delay in exercising on the part of any party hereto, any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provides in this Agreement are cumulative and not exclusive of any rights or remedies otherwise provided by law.

9.4. Nothing contained herein shall be construed as establishing a relationship of principal and agent as between MoFP and the Contractor. The Contractor has complete charge of personnel performing the Service and shall be fully responsible for the services performed by such personnel.

9.5. Notwithstanding that any provision of this Agreement may prove to be illegal or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

9.6. The term "Business Day" means any day (excluding Saturday, Sunday or a public holiday) on which commercial entities are open to the public for business in Jamaica.

9.7. The Headings in this Agreement are for reference purposes only and shall not limit, alter or otherwise affect the meaning of clauses in the Agreement.

9.8. This Agreement shall be governed by the laws of Jamaica.