



## **MINISTRY OF FINANCE AND THE PUBLIC SERVICE**

# **TERMS OF REFERENCE**

---

CONSULTANCY SERVICE

FOR:

**Legal Advisor for the Establishment of the Information and Communication and  
Technology Authority (ENICTA) Transition**

## Terms of Reference

### For contracting the services of a Legal Advisor for the Establishment of the Information and Communication and Technology Authority (ENICTA) Transition

#### 1.0. BACKGROUND

Jamaica's National Development Plan, VISION 2030, positions the Information and Communication Technology (ICT) sector as a pivotal element in Jamaica's transformation into a prosperous country. To this end, the GOJ articulated the "need for a holistic framework to guide the public sector's responsiveness to the needs of citizens through purposeful application of appropriate ICT solutions geared towards reducing unnecessary bureaucracy, driving efficiencies and improving service delivery"<sup>1</sup>.

The GoJ is experiencing significant internal and external pressures on its business practices which need to be effectively supported by Information and Communications Technology ("ICT"). Consequently, the GoJ is making effort to change how it does business to achieve greater operational efficiencies. Simultaneously, the GoJ desires to improve service and performance levels within the existing budgetary and fiscal constraints. These efforts are being made within an environment of decentralized resources. The culture of the GoJ's transformation programme is highly predicated on the notion of separating the policy function in Ministries from the operational functions in the Agencies and Departments. *Support services functions*, and particularly ICT, are not efficiently optimised in an environment of decentralization, as is the case in the GoJ.

Progress within the GoJ towards its stated goals has been steady. Continued progress, however, is increasingly dependent on the timely availability of ICTs. An overall ICT transformation process, closely aligned with the government's business strategies and objectives is fundamental as it can significantly improve the likelihood that the required enabling ICT infrastructure, skills and systems are in place and operational.

The Blueprint Report, developed under the Ministry of Science & Technology (MST), involved extensive consultation and engagement with Executives and MIS Officers across GOJ's Ministries, Departments and Agencies (MDAs), as well as external stakeholders. It also

---

<sup>1</sup> Source: The GOJ ICT Handbook

incorporated international best practices and presents a high-level Road Map and Action Plan toward the realization of the GOJ's five-year, sustainable ICT Transformation Agenda. By way of Cabinet Decision 28/16, in August 2016, approval was given for the Blueprint Report to provide an essential platform and be the enabler for the transformation of ICT within the Government of Jamaica. The Blueprint Report incorporates the principles of the established ICT Governance Framework previously approved by Cabinet and underscores the need for the ICT Council and Programme Portfolio Management Committee (PPMC) to address the priority initiatives for the GoJ that were arrived at during the MDA engagement as part of the ICT Transformation Process. ICT transformation within government is seen as a necessary element to drive transformation of the public sector by allowing for an improved governance framework for whole-of-government operations.

The benefits of ICT Governance are many. As the basis for delivering strategic ICT, it, inter alia:

- Creates organizational transparency and promotes responsible and accountable actions that enable ICT to effectively deliver against business goals.
- Fosters an integrated approach to the use of ICT that encourages whole of government collaboration and improves ICT cost control.
- Supports ICT in balancing technological advancement against business priorities and return on investment (ROI).

Cabinet has, in its approval of The Blueprint Report, expressed a clear mandate for a centralized ICT Governance philosophy to replace the existing decentralized and distributed model of ICT decision making by MDAs. In order to effect this mandate approval has been given for the establishment of a new ICT Authority with a centralized shared service delivery model.

The Blueprint Report, provides a road map and action plan for the ICT transformation process. The ICT transformation process entails taking ICT from its existing "As Is" reality to the desired "To Be" state in an approximately five (5) year timeframe. The Report will guide the transformation of the GoJ's ICT for the third decade of the 21<sup>st</sup> Century.

## **2.0. INTRODUCTION**

2.1. The GoJ is embarking on an ICT transformation process in an effort to improve services to citizens and businesses in Jamaica. It is recognised that currently there is no one organization that has full responsibility for ICT and related services, which results in a number challenges including:

- Lack of a comprehensive and cohesive approach to solution acquisition, using economies of scale, which often result in the duplication of ICT solutions;

- Fragmented, costly and inefficient implementation of ICT solutions;
- Implementation by Ministries, Departments and Agencies (“MDAs”) of non-integrated or inadequate solutions; and
- Slow response times and inefficiency.

Due to the foregoing challenges, the Cabinet approved the implementation of an ICT Governance Framework model involving, *inter alia*, the:

- Repositioning of Fiscal Services Limited, as eGov Jamaica Limited (“eGovJa”) with primary responsibility for the implementation of GoJ wide ICT projects; and
- Contracting of a Chief Information Officer (CIO) to provide overarching technology vision and leadership.

The Office of the CIO (“OCIO”), which was established in April 2015, is tasked with providing:

- Technology vision and leadership in the development and implementation of the GoJ ICT strategies, policies, initiatives, projects and programmes; and
- Definition and oversight of Information Management practices, uses and outcomes for the management of GoJ's ICT infrastructure, systems, platforms and service delivery.

With a mandate to provide ICT services to the entire public sector of the GoJ, eGovJa was restructured to support critical business processes of government entities and to enhance the revenue collection capabilities of the government. The range and scope of the services provided by eGovJa have changed dramatically and the organization is now required to service a larger client base; however there has not been a commensurate increase in human and physical resources.

The Blueprint Report supports the creation of a new ICT Authority to bring the entire ICT function under one roof in phases; with the first phase involving the consolidation of eGovJa and the OCIO and an expansion thereof, into the new ICT Authority. The establishment of the new ICT Authority, will provide a single authoritative voice and will provide the framework to expand the range of ICT services required by the GoJ (data centre hosting, server support, private government clouds, databases etc.). The new organization will not only “keep the lights on,” but provide better service and allow for more innovation. The ICT Authority will be headed by the CIO of the GoJ and will receive policy direction from the Ministry with portfolio responsibility for ICT.

The new ICT Authority will be required to, *inter alia*:

- a) Provide highly skilled and motivated information technology professionals that share a commitment to excellence and quality customer service;
- b) Maintain a clear understanding of the MDAs business services and needs;
- c) Assist in developing technical solutions that meet business needs;

- d) Ensure that the capacity required for supporting current and future enterprise needs is available;
- e) Provide innovative solutions and process improvements using proven state-of-the-art technologies;
- f) Deploy technology that protects individual privacy and provides adequate security to protect individual information as required by law; and
- g) Identify and address emerging needs for mission critical solutions.

The GoJ has contracted PricewaterhouseCoopers Tax and Advisory Services Limited (“PwC”) to assist in the repositioning/merger of eGovJa and the OCIO into the new ICT Authority. The project is being executed/managed by PwC Jamaica and is being supported by PwC USA and PwC India. Counterpart support to the Project is provided by the GoJ through a Project Implementation Unit, headed by a Project Manager. Project oversight is provided by a GoJ Project Steering Committee, which comprises key GoJ stakeholders.

### **THE STRATEGIC PUBLIC SECTOR TRANSFORMATION PROJECT (SPSTP)**

- 2.2. The **SPSTP** was designed to strengthen public resource management and support selected public sector institutions in facilitating a more enabling environment for growth. The project, funded by the World Bank, allows for the provision of technical assistance to address public sector transformation activities so as to achieve reforms of key institutions and overarching systems and processes such as ICT, in delivering on key outcomes so as to: (i) promote responsible and accountable actions that enable ICT to effectively deliver against business goals (ii) have an integrated approach to the use of ICT that encourages improved ICT cost control and (iii) balance technological advancement against business priorities and return on investment.

This assignment falls under Component 3(b) (ii) of the **SPSTP** and shall be executed in keeping with the procedures and operations manual for that project. The reporting of activities under the assignment shall be to the Technical Coordinator for Component 3 of the **SPSTP**, in collaboration with the Project Manager in the PIU.

### **3.0. SERVICES REQUIRED**

The SPSTP, in collaboration with the MST, is inviting proposals from qualified individuals (“the Legal Advisor”) to provide legal support and advise relevant to the activities for establishment of the New ICT Authority.

Reporting to the Executive Programme Lead and working closely with other team leads, the job will require knowledge of commercial law, employment law, labour law and operations of government, to conduct the following:

1. Supporting HR and other team leads as required for effective transitioning of staff
2. Identifying the conditions dictated under relevant labour law and the Civil Service Establishment Act for transitioning staff from the legacy entities to the new entity
3. Providing legal opinion, advice and direction on matters relevant to the establishment and operations of the ICT Authority

#### **4.0. OBJECTIVES OF THE CONSULTANCY**

The objectives of this assignment are to:

- a) Provide support for the establishment of the new ICT Authority for a period of not less than two years.
- b) Support the Executive Programme Lead in the resolution of escalated risks, issues and any relevant local and international obligations consequent on the establishment and operations of the ICT Authority.
- c) Develop, in collaboration with the Human Resource Lead and the relevant organisation development and asset management units within the MST, the necessary documents/instruments for movement of staff from the legacy entities into the ICT Authority and provide legal advice to ensure the functions and activities of the Project related to the transitioning of human and physical resources from the legacy entities meets the established policy and legal requirements; the consultant is also expected to confer with PwC as appropriate to the activities of the project as well as, participate in identifying any required additional talent.

#### **5.0. SCOPE OF WORK**

Specifically, the Legal Advisor will be required to execute the following activities:

- a) Undertake the necessary consultation with PwC so as to be informed of the policy and legal framework that will give effect to the establishment of the ICT Authority;
- b) In collaboration with the Human Resource other Project Leads, interface closely with the relevant management teams and key stakeholders to ensure the smooth transition of existing and new resources;

- c) Ensure adherence to prevailing labour law as well as, the Civil Service Establishment Act and standard practice requirements in transitioning the legacy entities' employees;
- d) Collaborate with the relevant office in MST to provide guidance so as to ensure the effective transitioning of any pension arrangements;
- e) Liaise with appropriate expert for labour laws and pension schemes appropriate for the public service in the setting up of an efficient staff pension scheme for the ICT Authority;
- f) Consolidate various agreements currently held by the legacy entities to ensure that rights and obligations of the legacy entities are appropriately passed to the successor entity;
- g) Identify the portfolio of impacted contracts across the MDA community and advise how service level agreements are to be transitioned to the ICT Authority so as to minimise any attendant risks;
- h) Assess any open legal issues, potential litigation and successor obligations facing the legacy entities and whether these should be migrated to the successor entity or otherwise determined;
- i) Conduct research by utilizing various resources and materials so as to lead in preparing and drafting of required legal submissions;
- j) Assist in reviewing legal materials and any other relevant documents to identify and prioritise the issues that need to be resolved;
- k) Implement a system to track and monitor the progress of all legal issues, and escalate any perceived business risks as appropriate;
- l) Liaise with the Corporate Shared Services Team to manage dependencies and overlaps in implementation;
- m) Ensure proper document management practices for files under your jurisdiction;
- n) Work in collaboration with the Ministry of Science & Technology and the legacy entities to consolidate the legacy/existing contracts in place in keeping with the task detailed at (h) above.
- o) Provide monthly progress reports for the Executive Programme Lead (EPL) highlighting any issues, risk or obstacles encountered in execution of the activities, new areas for

consideration, advice given and planned activities for the ensuing month in keeping with the activities herein assigned.

## 6.0. METHODOLOGY

The Legal Advisor is expected to use accepted and proven best practices of the profession and leadership skills for carrying out the assignment. Advice and actions are to be informed by research and relevant precedence related to the merger of existing entities. The Legal Advisor will develop, and agree a work programme with the EPL and provide deliverables as specified in this Terms of Reference (“TOR”), in keeping with the agreed timeframe. The Legal Advisor is expected to relate to stakeholders at all levels within the GoJ as required.

## 7.0. DELIVERABLES

The deliverables under this engagement are as specified in the table below. All documents submitted must conform to the following minimum standards:

- a) should use language appropriate for a non-technical audience;
- b) should be comprehensive, properly formatted and well presented;
- c) should be developed, as far as possible, through a consultative process, ensuring feedback from key stakeholders.

The key deliverables under this engagement are as specified in the table below:

<b>Key Deliverables</b>	<b>Performance Standard</b>
1. Work schedule	Comprehensive overall project schedule detailing timeline for activities under this assignment; monthly slice of the work schedule to be submitted with reports.
2. Legal Opinion/Report	Opinions or reports submitted in agreed format and frequency as agreed by the Executive Programme Lead and the Permanent Secretary, MST
3. Budget and Cost Report	Budget developed and Project Cost reports submitted in agreed format as agreed by the Executive Programme Lead and the Permanent Secretary, MST
4. Benefits Tracking Dashboard	Legal Dashboard submitted in agreed format as agreed by the Executive Programme Lead and the Permanent Secretary, MST



Key Deliverables	Performance Standard
5. Development, implementation and management of a legal issues impacting the transition process for the new ICT Authority	Legal issues handled within stipulated timeframe as agreed by the Executive Programme Lead and the Permanent Secretary, MST
6. Monthly Reports	<p>The Legal Advisor' reports will contain, inter alia, the following:</p> <ul style="list-style-type: none"> <li>a) Overall progress made in the assignment with reference to the TOR, with special reference to progress made in the month;</li> <li>b) Difficulties, if any, encountered in carrying out the assignment and proposed solutions;</li> <li>c) New areas and issues encountered and the proposed approach to dealing with them;</li> <li>d) An update of the Transition Plan and proposed changes, if any;</li> <li>e) Proposed activities for the following month;</li> <li>f) All advice given within the period.</li> </ul>

### ***7.1. “Sign-off” Procedure***

The Executive Programme Lead will work with the Legal Advisor to ensure that the deliverables align with the objective of this assignment. The Permanent Secretary (PS), MST and Executive Programme Lead will review and authorise acceptance all deliverables produced. Sign off for payment will be done by the Technical Coordinator, Component 3, subject to authorisation received from the EPL and PS, MST.

### ***7.2. Variations***

All proposed changes to the deliverables must be discussed with the Executive Programme Lead and approved by the PS, MST and notified to the ***Technical Coordinator Component 3, SPSTP***. Revisions to the TOR may be accommodated through mutual discussion and agreement with the PS, MST, the EPL and the relevant authority SPSTP.

## **8.0. QUALIFICATIONS AND TECHNICAL EXPERTISE REQUIRED**

The Legal Advisor will be expected to possess the following minimum qualifications, and demonstrate the following competencies:

- a) Bachelor of Law degree;
- b) Certificate of Legal Education;
- c) A minimum of ten (10) years' practice at the bar;
- d) Good working knowledge of commercial law, employment law, and labour law and any other relevant legislation;
- e) Demonstrated experience with government procedures, regulations and guidelines;
- f) Demonstrated experience on a similar role;
- g) Excellent verbal and written communication skills;
- h) Good interpersonal skills;
- i) Excellent analytical, negotiating, problem solving and decision making skills;
- j) Computer literacy with sound legal research techniques;
- k) Excellent writing skills;
- l) Good appreciation for excellent customer service.

## **9.0. COMMENCEMENT DATE AND PERIOD OF EXECUTION**

The Legal Advisor is expected to produce his/her deliverables under this assignment over a two (2) year duration.

## **10.0. CHARACTERISTICS OF THE CONSULTANCY**

Type of Consultancy:	Individual Consultant
Duration of Contract	24 months
Place of Work:	MST
Type of Contract:	Fixed Price Contract
Payment Responsibility	MOFPS, SPSTP Project Office
NB: The contract amount includes all costs related to undertaking the consultancy.	

## **11.0. CONDITIONS**

The Legal Advisor will be provided with the tools & resources to undertake this assignment; office space as necessary, will be provided by MST, as well as venues for meetings and or workshops. All materials and documents accessed during the conduct of this consultancy remains the property of the MST and is not authorized for use by the consultant for any other purpose than for the effective

conduct of the assignment, unless expressly authorized in writing by the PS, MST. Travel as required under this assignment is authorized and should be included in the bid price.

Interested persons should forward their applications and curriculum vitae **NO LATER THAN February 22, 2019 to: -**

The Procurement Specialist  
Strategic Public Sector Transformation Project  
Ministry of Finance & Public Service  
30 National Heroes Circle  
Kingston 4  
*Email:* [spstp@mof.gov.jm](mailto:spstp@mof.gov.jm)