



GOVERNMENT OF BERMUDA

Ministry of Economic Development
Department of Energy

Request for Proposals

Consulting Services for Fuels Policy and Legislation



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Department of Energy

27th July 2016

RFP DOE2016-2707
Fuels Policy and Legislation Consultant

Request for Proposals for Fuels Policy and Legislative Consultant

Dear Bidders:

The Government of Bermuda, Department of Energy seeks proposals from qualified legal consultants to provide assistance with the development of Fuels Policy and Legislation. You are cordially invited to submit a sealed proposal, in accordance with the requirements set forth in the documents attached hereto. Specifically, this RFP includes the following documents:

- Terms of Reference
- Instructions to Bidders
- Company Information Checklist
- Proposed Format for Technical Approach and Methodology
- Proposed Format for Company Team Composition
- Certification of Confirmation of Non-Collusion

Bidders intending to respond to this RFP should provide their point of contact information to energy@gov.bm, upon receipt of this RFP.

Summary of Key Dates

Release Date	27 th July, 2016
Question Deadline	10 th August, 2016
Responses to Questions	12 th August, 2016
Submission Deadline	19 th August, 2016
Evaluations	Weeks of 22 nd August to the week of 26 th September, 2016
Oral Presentations	TBD
Selection and Award Recommendations	30 th September, 2016
Seek Cabinet's Approval	TBD
Award of Contract	TBD
Tentative Contract Start Date	12 th October, 2016

The submission deadline for proposals is 19th August, 2016 at 3:00 p.m. AST. Late submissions will not be accepted.



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We look forward to receiving your proposal and we thank you in advance for your interest in this Government procurement opportunity.

Sincerely,

Jeane Nikolai
Director of Energy



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Terms of Reference, Consulting Services

Statement of Purpose

The Government of Bermuda is seeking to develop fuels legislation in order that Bermuda has a sustainable, affordable, and secure fuels future, with a stable, modern, and transparent regulatory regime based on global best practice. The vision is that Fuel Importers and Retailers will require licenses and the regulation we envision will provide oversight of the market while integrating various pieces of environmental and planning regulations with the license requirements.

Background

In 2008 the Government of Bermuda created the Department of Energy, as a direct recommendation of the Sustainable Development Plan of 2006. Part of its mandate is to develop fuels policy, legislation and regulation for Bermuda. In 2011, the Department published the Energy White Paper, which set out a series of broad, high-level goals intended to propel Bermuda into a cleaner, more environmentally responsible and more secure energy future. Among those high-level goals is the establishment of an independent regulator for the Energy sector. Earlier this year, the Electricity Act 2016 was granted Royal Assent, which achieved a significant stride toward that goal of independent regulation for a large component of the energy sector.

At present, Bermuda imports nearly all of the fuels it needs for all energy-consuming purposes, in the form of liquid fossil fuels. Although Bermuda's energy supplies have historically been relatively secure, there have always been and will continue to be ongoing risks to short-term energy security and sensitivity to pricing volatility. Bermuda's main fuel importers are SOL, Rubis Energy Bermuda and Bermuda Electric Light Company (BELCO). SOL, formerly operating as EXXON Mobil, owns the St. Georges fuel jetty. SOL imports premium gasoline, ultra-low sulfur diesel, jet A-1 fuel, kerosene, bulk and packaged lubricants. There are approximately eight service stations selling fuel imported by SOL, which are still branded as ESSO.

Rubis Energy Bermuda imports premium gasoline, liquid propane gas (LPG), ultra-low sulfur diesel and packaged lubricants. Rubis purchases kerosene from SOL when required. There are approximately twelve Rubis retail stations across the Island. Rubis Energy Bermuda has also recently purchased Bermuda Gas, which was previously owned by the Ascendant Group, which is the holding company that owns Bermuda Electric Light Company. Bermuda Gas is a gas distributor, supplying LPG to commercial and residential customers across the island. Bermuda Gas has a combination of bulk LPG trucks and open trailer trucks which transport 100lb cylinders and supplies smaller 30lb cylinders to Rubis retail stations across the Island.

BELCO imports heavy fuel oil and transfers the petroleum products from SOL's fuel jetty to BELCO's central plant. SOL charges BELCO a throughput fee for each barrel transported, which is unregulated and is subject to price changes, which are ultimately borne by the end user. SOL is responsible for offloading BELCO's fuel from the oil tankers and storing, heating and transferring that fuel to BELCO's central plant. In addition, BELCO purchases diesel from SOL, which is used to operate its peaking engines.



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As part of its initial integrated resource planning exercises, BELCO has been assessing the fact that the majority of their existing generating plant is approaching or indeed operating past its usable lifespan. Recognizing that urgent action is required in order to maintain system reliability, BELCO is planning to replace the aging plant with new engines. In order to ensure that the best solution is implemented, BELCO has been examining different options for its generation, including the introduction of liquefied natural gas to the Island. BELCO's initial findings are consistent with a study commissioned by the Department of Energy last year (2015) to explore the feasibility of bringing LNG to Bermuda. The study concluded that developing LNG for Bermuda is feasible, it is cleaner and it may offer some economic advantage in comparison to liquid fossil fuels currently imported to the Island.

Collingwood Holdings Ltd, who compete with both Rubis and Bermuda Gas are the newest LPG importer in Bermuda. Collingwood distributes LPG via bulk trucks and cylinders to commercial and residential customers across the Island. Collingwood, like its competitors, is not regulated apart from compliance with environmental and health and safety regulations.

Existing regulations that govern petroleum products focus on environmental controls, ensuring that emissions are kept to acceptable levels in terms of opacity, ensuring that occupational safety and health at work requirements are met and that planning requirements are satisfied when developing facilities to support the petroleum industry in Bermuda. SOL and Rubis are subject to some controls and approvals of their pricing, through an arrangement with the Ministry of Finance, which dates back to 1979. This arrangement requires the two local liquid fuel importers use a system of price adjustment on a monthly basis based on the average price posted in the Platts Index (Caribbean). The agreement further stipulates that the two petroleum companies must seek approval from the Ministry of any decision to increase the retail price of fuel. After evaluation, the Ministry either allows/disallows the proposed price, stipulating that all service stations charge the same price.

The price of LPG is not regulated by any Government entity, as LPG does not fall under the arrangement with the Ministry of Finance outlined above. Fuel quality is also unregulated and it falls to the importers to review the fuel quality specification and decide what will be imported. The Department of Environmental Protection only monitors Fuel Emissions under the Clean Air Act, which specifies opacity and health and safety standards.

Government also receives revenues from the importation of fuels by means of duty on petroleum products. Government has also recently levied a fuel tax at the St. George's oil docks to fund revitalization of the Town of St. George's, which is a UNESCO World Heritage Site. The tax is \$0.025 per liter tax on all petroleum imports.

The Department of Energy recently completed a review of the fiscal regime for fuels in order to better understand the structure and effect of the duties assessed on fossil fuels. The goal was to ascertain whether the system in place was economically efficient, fair and consistent with the



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Government's public policy objectives. The conclusions were that fuels receive a reasonably equitable treatment, so that no one fuel is excessively taxed as compared with others.

Ultimately, the Department's goal is to establish a regulatory environment to provide market oversight consistent with over-arching policy goals and to enable an independent regulator to assume responsibility for the regulation of fuels. Bermuda has an independent regulator, namely the Regulatory Authority (the RA), which has been created by the Regulatory Authority Act 2011 which sets out the RA's responsibility for any networked utility industry. The RA has governed the telecommunications industry since January of 2013 and will soon take on the regulation of the electricity industry. Recommendations on how to build capacity at the RA to provide for the future regulation of fuels, as well as how to amend any sections of the Regulatory Authority Act 2011 that will be needed for the fuels industry, will be required as part of the responses to this RFP.

Scope of Work

The successful response should include a draft scoping document, and elaborate on the following activities/deliverables, adding to them as appropriate.

Activity/Deliverable 1: Policy advice and guidance.

The Department of Energy having already developed electricity policy and legislation, needs further advice and guidance on how to develop fuels policy which achieves the following objectives:

- fair and transparent consumer pricing
- consumer protection
- setting and maintaining high standards of service
- reduction of risk to prospective industry investors by establishing a standardized and predictable licensing process

Activity/Deliverable 2: Legislative Drafting Instructions

It is envisioned that a Fuels Act will have to be created. It is intended that the Regulatory Authorities Act of 2011 will govern the regulation of fuels after being amended to accommodate the migration of fuels regulation from the Ministry of Finance to the Regulatory Authority. The Department needs assistance to create the legislative drafting instructions for the Parliamentary Drafting team, and then assisting with the review of the various iterations of the draft legislation itself.



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Activity/Deliverable 3: Development and Implementation of Licensing

At present, there are no licenses issued specific and unique to the fuels sector. In order to fund the regulation of fuels, a regulatory fee structure will have to be established, in parallel with the development of Government authorization fees and conditions. Safety and service standards should also be captured in the terms and conditions of licensure. Implementation of licensing will necessitate close collaboration with the Regulatory Authority, in order that the introduction of licensing is seamless to both the Regulator (who also has responsibility for collecting all regulatory and authorization fees related to telecommunications and electricity) and the fuels industry.

Activity/Deliverable 4: Legislation - Implementation schedule, timeline, and tasks.

The successful consultant will provide support to the Department of Energy for the tabling of legislation. Typical sub-tasks will include assisting with the plain-language drafting of the legislation, a clause-by-clause analysis and statements required by the Minister and Senator for debate. Assistance will also be required in training the Regulatory Authority staff for the additional regulatory responsibilities. Finally, assistance with the complete transition and handover of regulation from the auspices of the Ministry of Finance to the Regulatory Authority will also be required.



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Summary of Deliverables

1. Development of a Fuels Policy for Bermuda
2. Development of drafting instructions and support during the development of a new Fuels Act
3. Developing Fuels Regulations and Licenses
4. Legislation Implementation schedule, timeline, and tasks

Noting that timing is of paramount importance, proposals will be evaluated giving weight to projected time lines.

End of Terms of Reference



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INSTRUCTIONS TO BIDDERS

Pre-Submission Information

Companies interested in submitting a proposal should provide point of contact information to ensure receipt of any supplemental information that may be provided by the Government. Such information should be emailed to energy@gov.bm by no later than 8th August 2016, to help ensure timely receipt of any supplemental information.

Submission Deadline

Proposals must be received no later than 3:00 p.m. Atlantic Daylight Time (ADT), on 19th August 2016. **Proposals received after the stated deadline will be considered to be nonresponsive and will not be considered for a contract award.** The deadline will be strictly observed.

Submission Delivery

1. Electronic submissions are strongly encouraged. Electronic submissions should be in a pdf format and should be sent to energy@gov.bm, with the subject line 'RFP for Fuels Policy and Legislation Consultant'. The date and time stamp for proposals submitted electronically will be that of the Government's mail server. It is the bidder's responsibility to allow enough time for electronic transmission and delivery, especially in the case of large files. Please note that the largest allowable file to the Government servers is 9MB, and so any submissions that exceed this size must be either compressed or sent in several pieces.
2. Alternatively, sealed hard copies (3 copies required) of the proposals may be delivered to the following address:

Department of Energy
Ministry of Economic Development
3rd Floor
Government Administration Building
30 Parliament Street
Hamilton, HM12
Bermuda

The outer envelope must be clearly marked with the title 'Request for Proposals for Fuels Policy and Legislation Consultant'.

3. Submissions shall become the property of the Government and will not be returned. All conditions contained in the RFP are considered accepted by the bidder unless specifically accepted in the proposal.
4. All proposals will be kept confidential and will only be reviewed by Government of Bermuda employees or agents as necessary to complete the procurement process and/or the project.



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5. Submissions must be from professional law firms, familiar and experienced with work of this nature. In the case of a joint venture bid, one party must be clearly identified as the primary consultant, with all others being indicated as sub-contractors.

Questions/Addenda

Questions pertaining to this RFP must be submitted via e-mail to Energy@gov.bm. The Department of Energy will provide a written response to all pertinent questions in the form of an Addendum which will be emailed to the specified point of contact (as requested in the cover letter) for each bidder. Questions must be submitted by the question deadline as specified in 'Important Dates'. Questions after this deadline will not be answered.

At any time before the close of the RFP, the Government may alter or amend, in whole or in part, any terms or provisions of this RFP. The Government will communicate any such modification or amendment to the specified point of contact for each bidder.

Letter of Submission

Each proposal must be accompanied by a Letter of Submission that:

1. Identifies the company and person making the submission (name, title, address, telephone number, fax number and e-mail address);
2. If multiple bidders are proposing jointly, includes a statement indicating which vendor intends to act as primary consultant;
3. Includes a certification that the company making the submission is in receipt of all RFP documents (including any Addenda) and is committed to delivery of all required services as specified in the RFP; and
4. Includes a certification that the person(s) signing the transmittal letter is (are) authorized to legally bind the company.

Minimum Submission Requirements

Submissions must include the following information:

- 1.. **Company Qualification** – this shall include bidder qualifications and experience working on similar projects, as well as background information on the resources proposed to work on the project.
2. **Pricing Schedule** – this shall include the total cost to complete the required tasks as set forth in the Terms of Reference (including any proposed reimbursable expenses) and a breakdown that contains proposed milestones and the associated payment amount. The pricing schedule should also include unit rates for any additional services (hourly/daily/weekly rate) which may be required by the Government.



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3. **Approach/Methodology** - a description of the proposed approach/methodology which will be used to deliver the tasks outlined in the Terms of Reference must be included.
4. **Available Resources** – bidders must include resumes of all personnel who will be performing services on the project.
5. **Statement of Risks** – bidders should identify the potential risks which, in their experience, occur on projects of this type. In addition, the bidder should identify steps that can be taken (by the bidder or Government) to avoid or mitigate these risks.
6. **Required Government Resources** – any resources required of the Government must be identified. Such resources may include staff, offices space, training facilities, computer hardware, networking, cabling, or other supplies, etc.
7. **References** – bidders must include the name and contact information for three references who were prior clients within the last 5 years and who can provide information on prior experience working with the vendor on projects of a similar nature.
8. **Company Information** – see attached document.
9. **Certificate of Confirmation of Non-Collusion** – see attached document.

Bidder Responsibility

It is the bidder's responsibility to ensure its complete understanding of the terms and conditions set forth in this RFP. In the event that clarification is required, bidders should submit written enquiries as described above.

Review Process/Evaluation Criteria

Proposals submitted to the Government will be evaluated in a two-stage process as further described below.

Stage One: Proposal Responsiveness (Pass/Fail)

Proposals will be reviewed to determine compliance with all baseline requirements. Submission must be timely, and all required documentation must be included. Proposals that are late or that fail to contain the required documents and information will be considered nonresponsive and will be disqualified from further consideration.



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Stage Two: Proposal Review and Evaluation

Proposals will be evaluated based on the quality of the submission and the technical capability of the bidders. This shall include analysis of the following criteria:

- The bidder's understanding of the requirements of the project
- The bidder's prior experience with projects of a similar nature
- The proposed approach/methodology
- The bidder's available resources
- The bidder's proposed timeline for completion of the project
- The bidder's pricing proposal
- The responses from the bidder's references
- The bidder's financial status

The Government may seek written clarification from any or all bidders in order to better understand and evaluate proposals. This process may not be used as an opportunity to submit missing documentation or to make substantive revisions to the original proposal.

Presentations/Oral Interviews

Following the review and initial evaluation, finalists (proposals determined to have scored in the competitive range) may be invited to make oral presentations to the evaluation team with respect to their proposed solution. Oral presentations will not be scored separately, but will be considered as part of the overall scoring and resulting rank of each of the finalists.

Final Selection

The final award recommendation will be based on the highest scoring proposal as determined by total points and rank using the criteria stated above.

Negotiations

The Government reserves the right to enter into discussions or to negotiate with a bidder as it sees fit, or with another bidder or bidders concurrently. In no event will the Government be required to enter into discussions or negotiations on similar or other terms or offer any modified terms to any other bidder before entering into a binding contract. The Government shall incur no liability to any bidder as a result of these discussions, negotiations, or modifications.

Acceptance and Authority to Cancel this RFP

The Government shall not be obliged to accept the lowest priced proposal or any of the proposals submitted. Each bidder acknowledges and agrees that the Government shall have no liability or obligation to any bidder, except to the party, if any, awarded a contract by the Government at its sole discretion. The Government shall be fully and forever released and



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discharged of all liability and obligation in connection with this RFP. The Government reserves the right to cancel this RFP at any time prior to execution of a contract without any obligation or reimbursement to any bidder.

Confidentiality

All submissions shall be regarded as containing proprietary information and shall remain confidential from the public. However, details regarding the final contract award (name of recipient and price) may be publicly announced.

Ownership of Project Documents

All information produced as part of the project shall be the property of the Government. The bidder can only take possession of any relevant Government owned information when granted by the Government and only for the purposes of carrying out the objectives of this project. Use of the data for purposes other than this is strictly prohibited and requires written authorization by the Government.

General Terms and Conditions

1. The Government reserves the right to accept or reject any item or group(s) of items submitted in response to this RFP.
2. The Government reserves the right to waive any informality or irregularity in any proposal.
3. The Government shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by submission of the proposal.
4. All proposals will be considered final. No additions, deletions, corrections or adjustments will be accepted after the deadline for submission.

Payments

Payments are generally processed within 30 days of receipt of invoices for satisfactorily completed services. All responses must include any proposed variations to this standard payment term for consideration.

End of Instructions to Bidders



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COMPANY INFORMATION CHECKLIST

Please provide a description of your firm/entity and each associate firm or staff member who will work on this project. Your description should include information on the following:

- Company status (type of legal entity)
- A history and overview of the Company
- Description of core business activities and key consulting competencies
- Name(s) of the Principal(s) and Director(s) of the company and the company address
- Whether the company has any involvement with other entities or projects that may present a conflict of interest, and if so, please ensure details are provided.
- The firm's experience with projects of a similar nature in the last five (5) years;
 - o an overview of those projects including duration; and
 - o references for at least three of those projects, including names and full contact information.



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FORM T4 – PROPOSED FORMAT FOR TECHNICAL APPROACH & METHODOLOGY

This form may be used to assist in providing the required information, but is not required to be used.

Technical approach, methodology and work plan are key components of the Technical Proposal. It is suggested to present your Technical Proposal supported by relevant & appropriate charts and diagrams divided into the following three sections:

- a. Technical Approach and Methodology**
- b. Work Plan**
- c. Organization and Staffing**

a. Technical Approach and Methodology

In this section, you should explain your understanding of:

- the objectives of the assignment
- approach to the services & methodology for carrying out the activities
- obtaining the expected output

You should highlight the tasks & problems to be addressed and their importance, and explain the technical approach you would adopt to address them. You should also discuss potential risks of the project and mitigation strategies to be employed.

b. Work Plan

In this section you should propose:

- the main activities of the assignment, their content and duration
- phasing and interrelations of the main activities
- milestones - including interim approvals by the Client and delivery dates of reports

The proposed work plan should be consistent with the technical approach and methodology, showing a full understanding of the scope of work and ability to translate them into a feasible working plan.

c. Organization and Staffing

In this section, you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and the tasks to be addressed by each team member and proposed technical and support staff.



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FORM T5 – FORMAT FOR COMPANY TEAM COMPOSITION (Add more spaces as needed)

This form may be used to assist in providing the required information, but is not required to be used.

PROFESSIONAL STAFF				
NAME OF STAFF	FIRM	AREA OF EXPERTISE	POSITION	TASKS ASSIGNED
TECHNICAL STAFF				



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FORM T7

CERTIFICATE OF CONFIRMATION OF NON-COLLUSION

Notes for the Bidder

The essence of Open Tendering is that the Government of Bermuda shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle, all companies submitting a tender will be required, by way of the signature of the Company Principle, state their agreement to the statements below, which indicates that the tender has been submitted without any form of collusion.

The Certificate of Confirmation of Non-Collusion is a mandatory requirement from all bidders. Any bids submitted which do not include a signed copy of the Certificate will be wholly rejected and will not be included in the evaluation process.

If it is later found that the undertakings made below have been breached at any stage of the process, the bidder will be expelled from the process immediately. In the event that this is discovered after a contract award, legal action may be taken against the bidder and/or any party involved in the matter.

False submissions may also exclude the bidder, and any other person or company involved in collusion, from bidding for future contracts tendered by the Government of Bermuda.

Confirmation of non-collusion

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We confirm that we have not received any additional information, other than that contained within the tender pack, or supplementary information provided to all bidders.



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I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:

- (a) communicating to a person other than the tender administrator the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance) or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement, gift/hospitality or valuable consideration directly or indirectly to any person in relation to this tender.

Signed:

(1) _____ Title _____ Date _____

(2) _____ Title _____ Date _____

For and on behalf of _____