

Riyadh, Monday 27 Dhul Qa'-dah 1424H/19th January 2004G

**Request For Pre-Qualification of Candidates to Participate in the
Licensing Process of Data Telecommunications Services
in the Kingdom of Saudi Arabia**

INTRODUCTION

Following the Public Notice CITC PN 9/1424, (the “**Notice**”) and the Public Consultation Document entitled "*Licensing of Data Telecommunications Services*", (the “**Public Consultation Document**”) both published by the Communications and Information Technology Commission (“**CITC**”) on 17/9/1424H, (11/11/2003G), the CITC intends to license two service providers to build national data telecommunications services networks and offer data telecommunications services in the Kingdom of Saudi Arabia (the “**Kingdom**”) in accordance with the licensing process schedule (“**Schedule**”) attached to this document and forming part of it.

The present Request For Pre-Qualification (the “**RFPQ**”) is being made available to the public as part of the data telecommunications licensing process. The procedures outlined in this RFPQ for the licensing of data telecommunications services must be followed by all interested parties that wish to submit a response to the RFPQ (the “**Response**”). The CITC invites Responses from interested parties who seek to pre-qualify for the Application phase of the data telecommunications services licensing process.

Interested parties wishing to submit a Response should familiarize themselves with the Notice as well as the Public Consultation Document and the Kingdom’s regulatory and legal framework applicable to the communications and the information technology sector, including the Telecommunications Act enacted in June, 2001 (the “**Act**”) and the Telecommunications Bylaw issued in July, 2002 (the “**Bylaw**”). Such interested parties must also comply with the provisions of this RFPQ.

SUMMARY DATA TELECOMMUNICATIONS LICENSING PARAMETERS

Based on the responses to the Public Consultation and taking into account the extensive analysis it conducted, the CITC has decided the following:

- Two new identical licenses will be issued which will entitle their holders to offer a wide range of data telecommunications services including but not limited to IP transit and access, leased lines and managed data network services on a national level. The

licensees will not be allowed to convey voice traffic to or from any public voice network;

- The licensees will be permitted to establish their own international gateway and deploy their own transmission network at the backbone and access levels using fixed and/or wireless technologies. However, the licensees will be required to deploy their own switching facilities and establish a minimum number of points-of-presence in major cities. Such roll-out obligations will be made available in the RFA;
- The licenses will be valid for a period of twenty-five years;
- The CITC has issued interconnection guidelines in accordance with which Saudi Telecommunications Company (“STC”) is required to offer the new licensees a number of interconnection, facilities sharing and other related services through a Reference Interconnection Offer (“RIO”) currently under preparation by STC;
- Consistent with the CITC statutes, the winning applicants will be subject to the following annual fees: license fees, spectrum usage fees and a commercial provisioning of service fee. Fee levels corresponding to each of these categories will be communicated during the RFA phase; and
- Applicants will be required to submit a financial proposal for payment of an upfront license fee. Candidates will be evaluated based on their commercial, operational and technical proposals. The evaluation process will emphasize a number of key elements including the quality and extensiveness of the proposed network and the scope and quality of the services being offered.

PRE-QUALIFICATION OF CANDIDATES

In order to be considered for pre-qualification, interested parties must:

- Submit a Response to the CITC; and
- Pay the RFPQ fee as set out later in this RFPQ.

Parties which submit a Response to the CITC and pay the RFPQ fee in the manner and within the time limits set out in this RFPQ will be issued with a confirmation of registration by the CITC.

Subsequent sections of this RFPQ describe the criteria that will be used by the CITC to pre-qualify candidates as well as the information required to be included in a Response.

The CITC will review the Responses of registered candidates and develop a list of candidates eligible to apply for a data telecommunications services license. This list of pre-qualified candidates will be communicated to all registered candidates.

Pre-qualified candidates will be eligible to purchase a Request for Application ("RFA") and a draft data telecommunications service license upon signing a confidentiality agreement and paying the RFA fee to be established by the CITC. The RFA will specify the required contents of the Application, as well as the criteria that will be used by the CITC to evaluate applicants. The RFA will provide information on the rights and obligations of the new data telecommunications service providers.

CRITERIA FOR PRE-QUALIFICATION

In order to pre-qualify, candidates must demonstrate in their Response that they have:

- appropriate technical and operational experience and capabilities for operating a telecommunications network;
- appropriate commercial experience and capabilities for running a telecommunications services company;
- adequate financial resources; and
- commitment to comply with the CITC statutes and all relevant and applicable Saudi laws and regulations.

Specifically, the following set of criteria has been established to determine a candidate's compliance with the above:

Saudi Companies/Establishments

- Saudi companies/establishments must have at least five years of experience in the field of telecommunications including two years in the data field involving any one or more of the following areas: marketing, sales, installation, operations, maintenance and provisioning of telecommunications equipment and networks. Alternatively, Saudi companies/establishments may apply as a consortium where at least one of the members has the required five years of telecommunications experience and one of the other members has two years of experience in the data field as mentioned above.

Saudi Companies/Establishments in Association with Foreign Companies

- Saudi companies/establishments must have a minimum of three years of experience in the field of telecommunications involving any one or more of the following areas: marketing, sales, installation, operations, maintenance and provisioning of telecommunications equipment and networks

- Foreign companies must have at least five years of experience in data telecommunication services including network operations and service provisioning.

Access to Adequate Financial Resources

- Candidates must commit to file during the Application Phase, a financial comfort letter from a Saudi bank or from a recognised international bank in a form satisfactory to the CITC, indicating availability of financing for the first five years of the candidate's business plan.

Establishment of Licensee Company

- The candidate must be either a Saudi company or candidates must provide a commitment to the CITC to fulfil all the requirements to establish a Saudi company to become the licensee. Candidates must commit that such company will have the adequate and relevant capital to carry out the candidate's business plan.

INFORMATION REQUIREMENTS FOR THE RESPONSE

Candidates submitting a Response must comply with the following requirements:

1. Provide a cover letter signed by a person or persons duly authorised to act on behalf of the relevant candidate that includes the information set out below. Where the candidate is a consortium, the cover letter must be signed by a person or persons duly authorised to act on behalf of each member of the consortium and include the information set out below in respect of each member of the consortium. The cover letter must include:
 - (a) the name, place and date of incorporation (or equivalent);
 - (b) the place of domicile and, if they are not the same, the location of the registered office and the seat of management;
 - (c) description of the activities and names and main activities of its major shareholders;
 - (d) in case the candidate is a consortium, a detailed description of the intended arrangement (shareholding and/or contractual) amongst consortium members subject to majority Saudi ownership; and
 - (e) a declaration by the candidate, or in case of a consortium each member of the consortium, that their involvement in the licensing process is unique to their submission and that they will not seek or become involved with any other candidate or consortium at any time during the licensing process.

2. Documentation must be provided that clearly and unequivocally demonstrates full compliance with each of the pre-qualification criteria set out in this RFPQ. This documentation must include:
 - (a) in case the candidate is a consortium, a clear identification of which specific consortium member(s) satisfy each relevant criterion;
 - (b) details of the experience of the candidate or each consortium member including types of contracts, duration and associated work and services completed or in progress, emphasizing types of systems and locations along with involvement with respect to management, technical support and operations;
 - (c) the organizational structure(s), functions and responsibilities of the candidate or each consortium member emphasizing project management, system design, technical support, implementation, marketing, sales, operations and maintenance;
 - (d) annual financial statements for the last two fiscal years, including at least an income statement and balance sheet for the candidate or where the candidate is a consortium for each member of the consortium, Saudi or foreign; and
 - (e) documents providing evidence satisfactory to the CITC of the due constitution, registration and the identity of the company in question such as a copy of the certificate of incorporation, commercial registration or equivalent documents.
3. Provide the name, address, telephone number, fax number and e-mail address of two persons who may be contacted as authorized representatives of the candidate.

The information provided by candidates must be accompanied by written declarations certifying the accuracy and completeness of all the facts and figures supplied by the authorized representatives of such candidate.

OTHER PROVISIONS

Cross-Ownership- The CITC will exercise its powers as outlined in Chapter Six of the Act to prevent cross-ownership and its powers under Articles 12.1 (f) and 35 of the Bylaw to make it a condition of the data telecommunications service license that the licensee may not have any of its shares or its operations owned or controlled by another licensee operating in the same data market in the Kingdom. Mergers of operators in the data market in the Kingdom must comply with the Act and its Bylaw.

Disqualification Prior to issue of License - The CITC may refuse to pre-qualify candidates and remove them from further consideration, or having done so, remove them from the list of pre-qualified candidates for any of the reasons set out below:

- Failure to submit a complete Response in accordance with the provisions of this RFPQ by the prescribed submission deadline.
- Failure to pay the RFPQ fee by the prescribed submission deadline.
- Failure to comply with any of the procedures or other requirements established by this RFPQ.
- Illegal conduct by the candidate or any of its members related to the RFPQ process.
- Any attempts by the candidate or any of its members to influence the evaluation of Responses.
- Any “corrupt practice” by the candidate or any of its members, including the offering, giving, receiving or soliciting of any thing of value to influence the actions of a public official in relation to the pre-qualification process established by this RFPQ.
- Any “fraudulent practice” by the candidate or any of its members, including misrepresentations of fact or intention, and collusive practices, prior to and after submission of Responses, designed to undermine the integrity of the pre-qualification process.

Disqualification Subsequent To Issue of License - If at anytime the CITC learns that any of the activities referred to in the paragraph ‘Disqualification Prior to Issuance of License’ above has occurred, the CITC may revoke the relevant license without compensation, in accordance with the provisions of the Act and the Bylaw. The provisions of this section are in addition to any criminal or civil legal action that may be available to or taken by any government or regulatory authority, including the CITC.

Verification of Information - The CITC has made reasonable efforts to include accurate and current information in this RFPQ and in any other documentation provided to candidates and/or potential candidates. However, neither the CITC nor any of its employees, or any of its representatives, agents, advisors or consultants, including their respective employees (together "**Advisors**") shall have any liability whatsoever to any candidates or any of their consortium members, owners or shareholders or any other person resulting from use of or reliance on any of the information so provided. Candidates are encouraged to undertake their own verification of any information supplied by the CITC prior to use of or reliance on that information.

Verification and use of Information in Responses - During the evaluation of Responses, the information supplied by candidates will be verified by the CITC or its Advisors. By submitting a Response, candidates automatically consent to the information they have supplied being so verified and shall co-operate in this process. In addition, subject to applicable patent, copyright, trademark and similar laws, the CITC shall have the right to use or to reproduce ideas and information contained in a Response without notice or

compensation of any kind to the party. However, the CITC will take into consideration any requests for confidentiality received from candidates in their Responses. Candidates shall make any confidentiality claims in accordance with Article 11 of the Rules of Procedure.

Cost of RFPQ Response Preparation - The candidate and/or consortium members shall bear all costs and expenses incurred in the preparation and submission of the Response. The CITC will in no case be responsible for these costs, regardless of the conduct or outcome of the data telecommunications licensing process.

RESERVATION OF CITC RIGHTS

- The CITC reserves the right, at its sole discretion, to take any action, including amendment of this RFPQ, and any other CITC documents, which it considers necessary to ensure that the RFPQ process occurs in a fair, open and transparent manner, in accordance with the law.
- The CITC reserves the right, at its sole discretion, to terminate the RFPQ and/or data telecommunications service licensing process or revoke an award of a data telecommunications service license at any time before the data telecommunications service license is actually issued.
- The CITC reserves the right, at its sole discretion, to pre-qualify or not pre-qualify any candidate that has submitted a Response.
- Neither the Government of the Kingdom nor any of its agencies, employees, representatives, advisors or consultants, including the CITC and its Advisors, shall incur any liability whatsoever to any candidate or any of its respective consortium members, owners or shareholders or any other person by reason of any decision made or action taken by the CITC, its employees or its Advisors, in connection with the evaluation or disqualification of a Response or the carrying out or termination of the RFPQ process or the licensing process for any reason.

LEGAL AND FORMAL REQUIREMENTS

Governing Law - This RFPQ and any pre-qualification granted or denied, or any license issued pursuant to the data telecommunications service licensing process shall be exclusively subject to, and interpreted in accordance with, the laws of the Kingdom.

Settlement of Disputes - Any dispute, controversy or claim arising out of or in connection with this RFPQ, or the breach, termination or invalidity thereof, shall be settled in accordance with the Act and the Bylaw and other applicable laws of the Kingdom.

Language - The Response must be submitted in both the Arabic and English languages. However, candidates may elect to submit supporting materials including brochures, annual reports and technical documents only in the English language.

SCHEDULE AND PROCEDURES

RFPQ Fee – The fee for submitting a Response and registering with the CITC is one hundred thousand Saudi Riyals (SR 100,000). The RFPQ fee payment is to be by a certified cheque or bank draft to the Communications and Information Technology Commission and submitted simultaneously with the Response. This fee is non-refundable, regardless of the outcome of the RFPQ process. If a Response is submitted on behalf of a consortium of two or more parties, only one payment of the RFPQ fee will be due.

Deadline for Submission of Responses – Responses must be delivered to the Office of the Governor of CITC by 2:30pm (local time in the Kingdom) on Sunday 16 Muharram 1425H/7th March, 2004G. As stated above, only candidates or consortia that have filed a Response and paid the RFPQ fee, by the above deadline for submission and received due confirmation of registration will be considered eligible for pre-qualification. No Responses will be accepted after the deadline.

Delivery of a Response and Payment of RFPQ Fee - Five copies (one original and four copies including an electronic version of all documents) of the Response shall be packaged together in a single box or other container (“**Container**”). The Container shall be sealed, securely packed and closed, so that it is not possible to open it without visual evidence. The Container must be delivered by hand or by courier to the CITC at the address indicated below. If the Container is not sealed and marked properly, the CITC will assume no responsibility for the Response or the disposition of its contents. Improperly marked or sealed packages may be rejected by the CITC. The RFPQ fee shall be presented in a separate envelope outside the container.

Questions concerning the RFPQ - Questions concerning the RFPQ must be submitted by Sunday 18 Dhul Hijja 1424H/ 8th February, 2004G. The CITC will publish and send the answers to such questions by Sunday 2 Muharram 1425H/22nd February, 2004G. All questions should contain the following information:

- The name of the person to whom the written response to the questions should be addressed;
- The address, fax number and e-mail address of the recipient for the dispatch of the written response to the questions.

Other Correspondence with the CITC - All correspondence with the CITC, other than the filing of the Response and payment of the RFPQ fee, should be submitted to either one of the following addresses.

1. E-mail to:

data_response1@citic.gov.sa

2. Delivery by hand or by courier to:

The Office of the Governor
Communications and Information Technology Commission
King Fahad Road
Riyadh 11588, KSA.

SCHEDULE

The CITC is considering the following schedule for the licensing of the data telecommunications service providers.

- The RFPQ is issued on Monday 27 Dhul Qa'-dah 1424H/19th January, 2004G and Responses must be submitted to the CITC by 2.30pm (local time in the Kingdom) on Sunday 16 Muharram 1425H/7th March, 2004G.
- Questions from candidates concerning the RFPQ must be submitted by Sunday 18 Dhul Hijja 1424H/8th February, 2004G. The CITC will publish and send answers to such questions by Sunday 2 Muharram 1425H/22nd February, 2004G.
- The CITC intends to evaluate and pre-select candidates within two weeks following the submission of the Responses.
- The CITC will communicate the list of pre-qualified candidates to all registered candidates at the end of the evaluation. The RFA and the draft of the license agreement will be made available to the pre-qualified candidates upon signature of a confidentiality agreement and payment of an RFA fee to be determined by the CITC.
- The RFA process will then run over an eleven week period at the end of which the CITC will proceed to the evaluation and final selection leading to the award of the licenses.

The CITC reserves the right at its sole discretion to modify the above licensing schedule.