



FORM 2

SOCIETY NO. 596

SOCIETIES WITH RESTRICTED LIABILITY ACT OF BARBADOS

CERTIFICATE OF ORGANISATION

ST. PETER'S BAY SRL

Name of Society

I hereby certify that the above-mentioned Society, the Articles of Organisation of which are attached, was organised under the Societies with Restricted Liability Act of Barbados.

Walter A. Clarke

Registrar of Corporate Affairs
and Intellectual Property

May 30th, 2006

Date of Organisation

20 October 2012

Mr. Stanton Alleyne
Manager (ag).../

**Re: Mangrove Pond/Vaucluse Solid Waste Complex – Nullification of the Waste to Energy
Procurement Process**

We have found nothing in the document which makes time of the essence with respect to the Authority being bound by a fixed date to settle the prequalification process. Some two years have passed since the process began and both the Government policy and the relevant technology have changed. It is in the interest and within the competence of the Authority to proceed in a manner that reflects the new thinking on the project. In the circumstances, the Authority is free to nullify this initial procurement process and issue new invitations that address the new scope to the revised project.

As per your instructions, we have included a draft letter which you may consider sending to the relevant bidders.

We hope our response meets your requirements.

Yours faithfully,



N. KEITH SIMMONS, Q.C

cc
SKS
25/10/12

- * (e) noted that the Waste-to-Energy plant would generate 14 Megawatt hour of electricity and revenue of at least nine hundred and thirty-nine million, eight hundred and sixty-three thousand, nine hundred and eighty-six dollars (BDS\$939,863,986.00);
- (f) noted the estimated total potential savings for the period 2013 - 2018 to be approximately twenty-six million Barbados dollars (BDS\$26,000,000.00);
- (g) noted that the commencement date for the projects are March 1, 2012. The landfill gas-to-energy facility, beautification programme and solar energy farm would become operational by July 1, 2013. The new maintenance facility and wind energy farm would become operational by May 1, 2014. The waste-to-energy plant would be operational by February 28, 2015;
- (h) agreed that the Mangrove Pond Green Energy Programme comprising a Solar Power Facility, Wind Energy Facility, Mangrove Pond Beautification Programme, the construction of a new Mechanical Maintenance Facility, the previously approved Waste-to-Energy Facility and a Landfill Gas Management System be established;
- (i) agreed that the consultants R.J. Burnside International Limited be sole-sourced as the Technical Consultants/Project Managers for execution of the Mangrove Pond Green Energy Programme comprising a Waste-to-Energy Facility, Landfill Gas Management System, Solar Power Facility, Wind Energy Facility, Mangrove Pond Beautification Programme and the construction of a new Mechanical Maintenance Facility;
- (j) agreed that paragraph 239 of the Financial Management and Audit (Financial) Rules, 2011 be invoked to allow the sole sourcing of R. J. Burnside as the Technical Consultants/Project Managers for execution of the Project;

*10. Arising out of the meeting of the Cabinet Committee on Infrastructure on October 12th, 2012, the Authority reviewed the process of procurement for the Waste to Energy Facility and is of the view that it can be nullified. Below are the reasons and justifications for the proposed nullification of the process:

- a. There has been a two-year period since the submission of Expressions of Interest. In this intervening time, technologies in the Waste to Energy field have changed for the better, and the Government should be certain it is making the best decision for itself with the most current information.
- b. Per the Cabinet decision of March 29, 2012 noted herein (Appendix C), the Waste to Energy facility is now a component of the Green Energy Complex and Mangrove Pond Beautification Programme.
- c. Under the Green Energy Programme, the Waste to Energy facility is to be combined with the relocation of the mechanical workshop from Wildey to Vaucuse. Therefore, the scope of work has changed and any prospective bidders must indicate a willingness to include this facility in their bid.
- d. The Request for Expressions of Interest and responses received do not form a contract between the parties. The Authority may nullify the process at its convenience for any reason.
- e. **Article 14 in the advertisement states “*The Sanitation Service Authority does not bind itself to accept any submission*” (Page 2 of Appendix A).**
- f. **Article 6.2 (1) of The Instructions to Applicants from the Request for Expressions of Interest document states “*The Employer reserves the right to accept or reject any application, and to annul the prequalification process and reject all applications at any time, without thereby incurring any liability to Applicants*” (Appendix D).**

Factor	3. Financial Situation					Documentation Required
	Requirement	Criteria			Documentation Required	
		Single Entity	Applicant			
Sub-Factor		Joint Venture, All parties combined	Consortium, Each party	or Association At least one party		
3.2 Availability of Financial Resources	Applicant's sources of funds (access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credits and other financial means, other than any contractual advance payment) to meet the average minimum cash flow requirements \$20 million US for work in progress and commitments for future work for eighty four (84) months.	Must meet requirement	Must meet requirement	N / A	N / A	Form AF 4 and/or Form AF 5

Main Menu

Business Directory	Country:	Barbados
	Project:	SANITATION SERVICE AUTHORITY - UPDATE
	Financing:	Government Notices
Search Databank	Abstract:	TO BUILD OPERATE TRANSFER A WASTE TO ENERGY FACILITY
User Guide	Sector:	Waste Management
Account Information	Contract/Bid Number:	Call for expression of interest to prequalify contractors; RFP# BAR WTEF 2010-03
	Deadline:	16 August 2010

Copyright©

This notice was originally published on 11 June 2010 and has been updated on 15 June 2010. See addition in bold below.

Contact Us

The Government of Barbados through the Sanitation Service Authority is requesting Expressions of Interest from contractors for the design build operate finance and transfer a Waste to Energy Plant at the Solid Waste Management Complex in Vacluse, St. Thomas, Barbados.

Bidders will be expected to construct and operate a facility which can convert between 300 tonnes and 550 tonnes of predominately municipal solid waste into electricity, to be sold to the grid operator.

Bid documents comprised of the bidding procedures, bid forms, conditions of contract, specifications and drawings may be obtained from the Sanitation Service Authority between the hours of 0900 and 1630, Monday to Friday commencing Wednesday 16 June 2010 at the address provided below.

Bid documents and background data are also available on the SSA Planroom website. Details and passwords will be provided to proponents upon registration with the Authority.

A non-refundable fee of BDS \$200 is charged for each set of Bid Documents obtained.

Interested parties will not be allowed to visit the site without prior knowledge of the Sanitation Service Authority.

Expressions of Interest should be submitted with the appropriate forms in sealed envelopes marked Build Operate Transfer a Waste To Energy Facility and should be addressed to The Chairman of the Sanitation Service Authority to reach him no later than 1600 hours,

11. The Sanitation Service Authority sought a legal opinion on whether the procurement process, for the Waste to Energy Facility could be nullified. The Legal opinion (Appendix F), as extracted from a letter from StoneHouse Law Chambers, dated October 12, 2012, and entitled "Mangrove Pond/ Vaucluse Solid Waste Complex Nullification of the Waste to Energy Procurement Process," is as follows:

"We have considered the principal document in this initial process, titled "Request for Expressions of Interest and Prequalification Build Operate and Transfer of a Waste to Energy Plant", dated June 2010. This document sets out the parameters within which the Authority must act. It is hereinafter referred to as the Bid document.

Although this document speaks of bid and bidders, we are of the view that it does not anticipate bids which amount to acceptance of an offer from the Authority to build anything, so that acceptance binds the Authority in a contractual arrangement with the bidder. The Bid document was an invitation to all the world to express an interest in being retained by the Authority to provide the services for which advertisement was made. All such expressions of interest were no more than the respondent making itself available for scrutiny so that a determination may be made of its suitability to qualify for such consideration. A prequalification exercise does not rise to the level of an offer that may be accepted to form a contract. The highest obligation on the Authority is to fairly review the bids.

We have found nothing in the document which makes time of the essence with respect to the Authority being bound by a fixed date to settle the prequalification process. Some two years have passed since the process began and both the Government policy and the relevant technology have changed. It is in the interest and within the competence of the Authority to proceed in a manner that reflects the new thinking on the project. In the circumstances, the Authority is free to nullify this initial procurement process and issue new invitations that address the new scope to the revised project."

12. Notwithstanding the above, it should be noted that the construction of the new Mechanical Maintenance Facility at Vaucluse would facilitate the relocation of the existing Wildey Depot mechanical maintenance facility. The estimated capital cost of the mechanical facility is approximately Barbados nine million, two hundred and twenty-three thousand dollars (BDS\$9,223,000). The modern facility would comprise sixteen bays and a washing bay for the SSA's vehicles. Consequently, during the construction of the maintenance facility, SSA's fleet of vehicles would be maintained at the existing site. After completion of the new workshop and after all the maintenance and repair operations are

6. The Request for Expressions of Interest (REOI) was issued by the Sanitation Service Authority on June 11, 2010. It was advertised locally on three occasions in the Barbados Advocate and the Nation News and internationally, it was advertised for a three week period on the United Nations Business Development Website.

7. Expressions of Interest submissions were received by the SSA on August 30, 2010 and were opened publicly on August 31, 2010. A total of twelve submissions were received from international and local contractors:

1. AB & E/Williams Industries
2. Plasco Energy Group/SNC Lavalin International Inc.-
3. China State Construction Engineering Corporation Ltd.
4. Trident Waste to Energy
5. Bajan Energy Corporation
6. GD Environmental Services
7. Complant
8. Tower Engineering Hawaii Ltd. (A.A Design & Builders)
9. Waste to Power Ltd.
10. Ledcor
11. M&A Int'l/Stratus (on behalf of Nova Geracao)
12. The World Resource Foundation (L&M International)

8. Eight (8) of the Applications were considered to be substantially non-responsive to the REOI. These Applications did not include some or all of the requisite Forms and/or supporting documentation. Where information was provided, it did not demonstrate the Applicant's ability to meet the specified financial and technical thresholds. Accordingly, and without further information, the Applications submitted by the following companies were substantially non-responsive:

1. Trident Waste to Energy
2. Bajan Energy Corporation
3. GD Environmental Services
4. Tower Engineering Hawaii Ltd. (A.A Design & Builders)
5. Waste to Power Ltd.
6. Ledcor
7. M&A Int'l/Stratus (on behalf of Nova Geracao)
8. The World Resource Foundation (L&M International).