

Notice of Inviting Expression of Interest through Internet

18 August 2010

Agreement No. CE 25/2010 (HY)

Independent Design Review, Checking of Project Cost and Cost Apportionment for Design and Site Investigation Phase – Investigation

Interested consultants are invited to express their interest in undertaking the above consultancy.

Consultants should fulfill and declare that they have met the following longlisting criteria for their submissions to be considered further:

1. A consultant firm with an office and registered in Hong Kong.
2. The consultants should have at least 1 number of professional staff resident in Hong Kong with relevant expertise in each of the following professional service categories:
 - S1 – General Civil Engineering
 - S7 – Tunnel Engineering
 - S10 – Railway Engineering
3. To avoid conflict of interest, the consultants who were engaged in preliminary design and site investigation consultancies and detailed design and site investigation consultancies by MTRCL in the SCL project would not be included in the list for EOI invitation even they satisfied the criteria 1 and 2 mentioned above.

Interested consultants may obtain an Electronic Invitation Package (EIP) in the context of Works Bureau Technical Circular No. 17/2001 for the assignment by contacting the following officers of Highways Department:

<u>Name</u>	<u>Post</u>	<u>Telephone</u>	<u>Fax No.</u>
Mr. Terence Lai	Senior Engineer	2762 3513	2714 5297
Mr. David Chan	Engineer	2762 4037	2714 5297

The scope of this assignment, which is scheduled to commence in November 2010, is indicated in the draft Brief given in **Annex A** of the EIP.

If you are interested in this assignment, would you please reply to the Railway Development Office, Highways Department at 1/F., Homantin Government Offices, 88 Chung Hau Street, Ho Man Tin, Kowloon before **12:00 noon on 25 August 2010 (Wednesday)**, by submitting **six** sets of documents containing the following information in a maximum of four A4 pages and a minimum font size of 12:-

- (a) your broad approach to the assignment and appreciation of the requirement;
- (b) previous relevant experience both in Hong Kong and elsewhere;
- (c) an indication of key staff likely to be employed for the assignment (together with attachments showing their curriculum vitae and an organization chart of the project team as necessary);
- (d) an indication of sub-consultants to be employed; and
- (e) your comments on the draft Brief and the draft Schedule of Fees (**Annex B**).

Please note that no attachment, except for the curriculum vitae of the key staff likely to be employed on the consultancy and the organization chart of the project team as mentioned above, should be included in your submission. Late submissions or submissions that do not conform to the requirements in respect of the number of pages, the page size, the font size or the attachments will not be considered.

If a black rainstorm warning or typhoon signal No. 8 or above is hoisted between 9 a.m. and 12 noon on the closing day for receipt of the submissions, the closing date shall be extended to 12 noon on the following working day (excluding Saturday). Late submissions will not be considered.

You may make your submission in either electronic format or hard copy format. If part of the submission is made in both electronic and hard copy formats, the electronic format shall prevail over the corresponding hard copy format. If you elect to make your submission in electronic format, the documents for your proposal shall be prepared and submitted in accordance with **Annex C** of the EIP - Requirements for Submission of Proposal in Electronic Format. All proposals, whether submitted in electronic format or in hard copy format, will be evaluated on an equal basis. Notwithstanding paragraph 16 in WBTC No. 31/2001, the Expression of Interest in either format shall be submitted directly to this Office at the address given in this notice.

The electronic documents for preparing your submission are included in the attached CD-ROM and are listed in Schedule 2 to the attached licence conditions for using these documents. You will be deemed to have accepted these conditions if you use these documents listed in Schedule 2.

The assessment criteria and weightings for marking the expression of interest submitted by consultants and the composition of the assessment panel are given in **Annex D** of the EIP. For information, the past performance of sub-consultants will both be assessed in the Expression of Interest stage and Technical & Fee Proposal stage.

If you are a limited liability company, you are required to submit documentary proof that the majority of the voting power in meetings of the company shall be held by directors who are consulting engineers (or equivalent professionals of associated professions).

You are also required to declare any involvement or interest if it is considered by you to be in real or apparent conflict with the duties to be performed for this consultancy.

This information will not be counted as part of the A4 size pages. Any involvement or interest declared will be carefully considered but will not automatically bar you from being further considered in the selection process.

You are required to comply with the requirements as described in the “Notes to the Requirements of Quality Management System Certification of Consultants” in **Annex E** of the EIP, and submit all necessary documents together with your expression of interest submission. This information will not be counted as part of the four A4 size pages.

The initial list of qualified consultants being approached for this Assignment is given in **Annex F** of the EIP for your information. However, you should note that the Government is not bound to invite technical and fee proposals from any of these consultants expressing an interest. Based on the response received, normally four suitable firms will be shortlisted for submission of technical and fee proposals.

No Consultants are permitted to submit more than one bid for the same agreement. For the avoidance of doubt, Consultants who submit a bid in their own name and a bid in the name of an un-incorporated joint-venture / partnership (with the Consultants concerned as a participant / partner) will be considered as having submitted two bids. Consultants (these must be consulting firms to be eligible for being considered for this consultant selection exercise) having linkages to each other, e.g. subsidiaries, parent or sister companies are not allowed to bid on the same agreement. Only one firm among such consultants, as the case may be, should be allowed to submit expression of interest for a consultancy agreement. You are thus required to declare any linkage with other consultants on the above list. The existence of a holding-subsidiary relationship shall be determined in accordance with the provisions in Section 2(4) to (8) of the Companies Ordinance, Cap 32, “Sister companies” shall mean all companies which are subsidiaries of or otherwise belonging to the same holding company. Consultants having linkages should sort out among themselves before submitting any expression of interest.

For the purpose of this “no linkage” requirement, an academic institution and any separate entities/companies formed by the same academic institution or any of its current staff, or any two of such entities/companies (whether formed by the same staff or not), shall be

regarded as “linked”. An academic institution, and all such entities/companies formed by it or any of its current staff (whether by the same staff or not), shall be allowed to submit only one expression of interest for the same consultancy agreement. You are also required to declare any such linkage with other consultants on the above list, if applicable. An entity/company is regarded as formed by the academic institution or its staff if the latter is a partner/shareholder or a director of the former, whether or not the latter is a founding partner/subscriber when the entity/company was formed.

Failing to observe this requirement shall render all related expression of interest submitted null and void and any such submission shall not be considered.

Please note that where the Consultants are non-resident corporation or, where the Consultants are unincorporated joint venture or partnership or sole proprietorship, any one of the participants or partners or the sole proprietor is a non-resident, the Government shall withhold a percentage equivalent to the prevailing Hong Kong Special Administrative Region (hereinafter referred to as Hong Kong) profits tax rate applicable to unincorporated and incorporated business at the time the services are rendered (the rates being 15% for unincorporated business and 16.5% for incorporated business for the year of assessment of 2008/2009) of any fee payable to the Consultants, whether by way of lump sum, instalments or discounted payments, but exclusive of any reimbursement of expenses, if any, in respect of the Services performed/provided in Hong Kong for the settlement of Hong Kong profits tax chargeable on the fee. Any balance representing the excess of fees so withheld in the basis period of the year of assessment over the Consultants’ tax liability for that year will be returned to the Consultants without interest within a reasonable time upon final determination and settlement of their tax liabilities.

Where the Consultants are non-resident corporation or, where the Consultants are unincorporated joint venture or partnership or sole proprietorship, any one of the participants or partners or the sole proprietor is a non-resident, should they be awarded the consultancy, such data (including but not limited to their names, nature of engagement, consultancy period, consultancy fee, correspondence address (both local and overseas) and the amount of tax withheld) will be notified/provided to the Inland Revenue Department for tax assessment and collection purposes.

“Non-resident” means in the case of an individual, one who maintains a place of abode outside Hong Kong; and in the case of a corporation, one which is not incorporated in Hong Kong.

Consultants shall declare their resident status or the sole proprietor’s resident status in their consultancy proposals. If the Consultants are unincorporated joint venture or partnership, the Consultants must declare the resident status of each and every participant or partner thereof. A sample declaration letter is given in ETWB TCW No. 34/2004.

Please also note that documents of unsuccessful consulting firms will be destroyed three months after the date the Agreement has been awarded and signed.

It should be noted that the Government will not be responsible for the reimbursement of any cost incurred by you for the preparation of the submission.