

Notice of Inviting Expression of Interest through Internet

23 August 2013

Agreement No. CE 39/2013 (HY)
**Provision of Barrier-free Access Facilities at Public Footbridges,
Elevated Walkways and Subways Phase 3 (Package 5)**
- Design and Construction

and

Agreement No. CE 40/2013 (HY)
**Provision of Barrier-free Access Facilities at Public Footbridges,
Elevated Walkways and Subways Phase 3 (Package 6)**
- Design and Construction

1. Interested consultants are invited to express their interest in undertaking the above two consultancies.
2. Consultants should fulfill and declare that they have met the following longlisting criteria for their submissions to be considered further:
 - (a) The consultants shall be multi-disciplinary and have a minimum of 10 professional staff in Hong Kong.
 - (b) The consultants shall have the required number of professional staff in Hong Kong as detailed below:

Service Category	Minimum number of professional staff in Hong Kong
S2 - Geotechnical Engineering/Geology	1
S8 - Traffic Engineering/Transportation	1
S9 - Highway Engineering/Bridges	1
S13 - Electrical and Mechanical Engineering	1
S14 - Project Management	1

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

<u>Name</u>	<u>Post</u>	<u>Telephone</u>	<u>Fax No.</u>
Mr. Martin W. C. KWAN	Senior Engineer	2762 3603	2761 4864
Mr. Kenny C. M. OR	Engineer	2762 3998	2761 4864

4. Highways Department is now considering the appointment of consultants for Agreement No. CE 39/2013 (HY) and Agreement No. CE 40/2013 (HY). The two assignments are currently expected to

commence in around January 2014. The scope of these two assignments is indicated in the respective draft Briefs in **Annex A** and **Annex B** of the EIP. The respective draft Schedules of Fees for these two assignments are given in **Annex C** and **Annex D** of the EIP.

5. If you are interested in any one or both of these assignments, please reply to Project Manager/Major Works of Highways Department at 6/F., Homantin Government Offices, 88 Chung Hau Street, Ho Man Tin, Kowloon for the attention of Mr. Raymond T. W. Kong, Chief Engineer 1/Major Works, before **12:00 noon on 13 September 2013 (Friday)** by submitting for **each** Agreement **seven** sets of documents containing the following information in a maximum of four A4 pages with a minimum font size of 12 in Times New Roman:

- (a) your approach to the assignment and appreciation of the requirements;
- (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 study/project team as necessary);
- (d) an indication of sub-consultants to be employed (which should include all individual academic institutions, specialists, advisors, experts and the like proposed to be externally engaged to provide the Services under the Agreement, and all references to “sub-consultants” in this notice should be construed accordingly); and
- (e) your comments on the draft Brief and draft Schedule of Fees.

6. Please note that no attachments, except attachments for the curriculum vitae of the key staff likely to be employed on the consultancy and the organization chart of the study/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 shall not be considered.

7. Your reply must be submitted in sealed envelope(s) clearly indicating your company’s name and the assignment reference [i.e. Agreement No. CE 39/2013 (HY) or Agreement No. CE 40/2013 (HY) as appropriate] and marked “Restricted (Contract)”. Please note that if you wish to express interest in both Agreements, submissions should be made separately in a sealed envelope for each of the Agreements.

8. If a black rainstorm warning or typhoon signal No. 8 or above is hoisted between 9:00 a.m. and 12:00 noon on the closing day for receipt of the submissions, the closing date shall be extended to 12:00 noon on the following working day (excluding Saturday). Late submissions shall not be considered.

9. 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 E** 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 Works Bureau Technical Circular No. 31/2001, the Expression of Interest (EOI) in either format shall be submitted directly to this Office at the address given in this notice.

10. The electronic documents for preparing your submission are included in the EIP and are listed in Schedule 2 to the attached licence conditions for using these documents (licence conditions in **Annex F** of the EIP). You will be deemed to have accepted these conditions if you use the documents listed in

Schedule 2. The electronic documents listed in Schedule 2 have been digitally signed by using an e-Cert issued by the Hong Kong Post.

11. The assessment criteria and weightings for marking the EOI submitted by consultants and the composition of the Assessment Panel are given in **Annex G** of the EIP. For these two Agreements, both Assessment Panels have agreed that the past performance of sub-consultants will not be assessed in the technical proposals to be submitted by the shortlisted consultants in the Technical and Fee Proposal stage. However, the past performance of sub-consultants shall continue to be a mandatory assessment criterion in the EOI stage.

12. You are required to comply with the requirements as described in **Annex H** of the EIP - "Notes to the Requirements of Quality Management System Certification of Consultants", and submit all necessary documents together with your EOI submissions.

13. If you are a limited liability company, then 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).

14. Your attention is drawn to Environment, Transport and Works Bureau Technical Circular (Works) No. 18/2005 regarding the requirements on the avoidance of conflicts of interests and debarring.

15. 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 the consultancies. Any involvement or interest declared would be carefully considered but would not automatically bar you from being further considered in the selection process.

16. It is intended that from those consultants who express an interest in undertaking the Agreements, a shortlist of consultants will be prepared for each of the Agreements. The shortlisted consultants will be invited to submit technical and fee proposals, based on which the final selection of the consultants will be made. However, you should note that the Government is not bound to invite technical and fee proposals from any of those consultants expressing an interest.

17. Your attention is drawn to the following special requirements applicable to the consultants selection exercise for Agreement No. CE 39/2013 (HY) and Agreement No. CE 40/2013 (HY):

- (i) where a consultant firm ^{Note 1} attains the highest combined technical-fee result in only one assignment, the consultant firm may be awarded that assignment;
- (ii) a consultant firm that attains the highest combined technical-fee result in both assignments may be awarded not more than one of the two assignments;
- (iii) a consultant firm that attains the second highest combined technical-fee result in an assignment may be considered for being awarded the assignment if the consultant firm with the highest combined technical-fee result in that assignment also attains the highest combined technical-fee result for the other assignment; and
- (iv) where the same consultant firm attains the highest combined technical-fee result in both assignments, the scenario under which the total consultancy fee for the two assignments is the least to the Employer will form the basis for awarding the assignments; if the

total consultancy fees for the two possible combinations of winners for the two assignments are the same, the scenario under which the total technical score for the two assignments is the highest will form the basis for awarding the assignments.

Note 1: Provisions (i) to (iv) above also apply to joint ventures. A joint venture or consultant firm that has any participation or shareholding in common with another joint venture or consultant firm shall be regarded as being one and the same consultant firm for the purposes of provisions (i) to (iv).

18. The initial list of qualified consultants approached for these two Assignments is attached in **Annex I** of the EIP for your information. Based on the response received, normally four suitable firms will be shortlisted for submission of technical and fee proposals.

19. 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 EOI 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 EOI.

20. 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 EOI 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.

21. Failure to observe this "no linkage" requirement shall render all related EOI submitted null and void and any such submission shall not be considered.

22. 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 current rates being 15% for unincorporated business and 16.5% for incorporated business for the year of assessment of 2013/2014) of any fee payable to the Consultants, whether by way of lump sum, installments 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.

23. 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.

24. “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.

25. 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 Environment, Transport and Works Bureau Technical Circular (Works) No. 34/2004.

26. Your attention is drawn to Environment, Transport and Works Bureau Technical Circular (Works) No. 3/2005 regarding the novation of consultancy agreement. A consultant who has requested for novation of consultancy agreements pursuant to the provision in the circular would not be invited to bid for or be awarded any further consultancies. Similarly, bids submitted by consultants who engage such a consultant as a sub-consultant would not be considered.

27. The documents, reports and relevant as-constructed drawings as listed in Appendix D and Appendix E of the draft Briefs of both Agreements are available for inspection by appointment with our engineer, Mr. Kenny C. M. OR at telephone no. 2762 3998 or at email address e5ua.mw@hyd.gov.hk.

28. For the avoidance of doubt, the following submissions will not be counted as the four A4 size pages as described in Paragraph 5 of this notice:

Submissions to be returned to this Office	Relevant paragraphs in this notice
(i) Declaration of meeting the longlisting criteria	Paragraph 2
(ii) Necessary documents to comply with the Requirements of Quality Management System Certification of Consultants	Paragraph 12
(iii) Documentary proof in relation to voting power if you are a limited liability company	Paragraph 13
(iv) Declaration of any involvement or conflict of interest	Paragraph 15
(v) Declaration of any linkage with other consultant on the initial list of qualified consultants approached	Paragraphs 19 and 20
(vi) Declaration of resident status	Paragraph 25

29. Please note that documents submitted by unsuccessful consulting firms for each of the Agreements will be destroyed three months after the date that Agreement has been awarded and signed.

30. 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.

31. If you have any queries, please contact our Senior Engineer, Mr. Martin W. C. KWAN at 2762 3603 or our Engineer, Mr. Kenny C. M. OR at 2762 3998.