

Notice of Inviting Expression of Interest through Internet

16 November 2010

Agreement No. WD 11/2010
Improvement to Pok Oi Interchange
Advisory Services on New Engineering Contract

Invitation for Expression of Interest

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

Consultants should fulfil and declare that they have met the following minimum requirements on qualifications and experience of the New Engineering Contract for their submissions to be considered further:

“At least two of the key staff likely to be employed for the assignment shall be a Corporate member of an appropriate professional institution or equivalent (e.g. MHKIE / MHKIS) and have relevant experience of at least five years on management and advisory on construction works projects adopting the New Engineering Contract.”

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

| <u>Name</u> | <u>Post</u> | <u>Tel. No.</u> | <u>Fax No.</u> | <u>Email</u> |
|------------------|-------------|-----------------|----------------|----------------------|
| Mr. Sam Y S Chan | SE/HK2 | 3188 3318 | 3188 3420 | sehk2.wd@hyd.gov.hk |
| Mr. C K Wan | E/HK2-2 | 3188 3281 | 3188 3420 | ehk2-2.wd@hyd.gov.hk |

The scope of this assignment, which is tentatively to commence in January 2011, is indicated in the draft Brief given in **Annex A** of the EIP. The draft Schedule of Fees is given in **Annex B** of the EIP.

If you are interested in this assignment, please reply to the Works Division, Highways Department at 16/F, Skyline Tower, 39 Wang Kwong Road, Kowloon Bay, Kowloon before **12:00 noon on 30 November 2010 (Tuesday)** by submitting **five** sets of documents containing the following information in a maximum of four A4 pages with a minimum font size of 12 of Times New Roman:

- (a) your broad approach to the assignment and appreciation of the requirements;
- (b) previous relevant NEC 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 degree of involvement in the assignment);
- (d) an indication of sub-consultants to be employed; and
- (e) your comments on the draft Brief and draft Schedule of Fees.

Please note that no attachments, except for the curriculum vitae of the key staff likely to be employed on the consultancy 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 9:00 a.m. and 12:00 noon on the closing date for receipt of the submissions, the closing date shall be extended to 12:00 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 the "Requirements for Submission of Proposal in Electronic Format" given in **Annex C** of the EIP. All proposals, whether submitted in electronic format or in hard copy format, will be evaluated on an equal basis.

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 the composition of the assessment panel are given in **Annex D** of the EIP. For information, the Assessment Panel has agreed that for this consultancy, the past performance of sub-consultants will not be assessed in the Technical and Fee Proposal stage, but the past performance of sub-consultants shall continue to be a mandatory assessment criterion at the Expression of Interest stage in accordance with DEVB TC(W) No. 2/2009.

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).

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 would 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” given in **Annex E** of the EIP, and submit all necessary documents together with your expression of interest submission. The information will not be counted as part of the A4 size pages.

The initial longlist of consultants, to which invitation letters sent for submitting expression of interest 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.

Failure 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 current rates being 15% for unincorporated business and 16.5% for incorporated business for the year of assessment of 2009/2010) 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.

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 TC(W) No. 34/2004.

You are reminded that submissions are being invited on a non-commitment basis and the Government will not be responsible for the reimbursement of any cost incurred by you for the preparation of the submission.

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

If you have any enquiry, please contact my Senior Engineer/HK2, Mr. Sam Y S Chan, at telephone no. 3188 3318 or Engineer/HK2-2, Mr. C K Wan, at telephone no. 3188 3281.