

Notice of Inviting Expression of Interest through Internet

13 October 2017

Agreement No. CE 28/2017 (HY) Pedestrian Link near Chuk Yuen North Estate Design and Construction

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

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

The consultants shall have at least the prescribed number of professional staff resident in Hong Kong in each of the following service categories:

Category (Service Code)	Minimum No. of Professional Staff in Hong Kong
General Civil Engineering (S1)	4
Geotechnical Engineering / Geology (S2)	1
Structural Engineering (S5)	2
Traffic Engineering / Transportation (S8)	2
Highway Engineering / Bridges (S9)	3
Electrical and Mechanical Engineering (S13)	1
Project Management (S14)	1

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

<u>Name</u>	<u>Post</u>	<u>Telephone</u>	<u>Fax. No.:</u>
Mr. TONG Wai-man	Senior Engineer	3903 6794	3188 3420
Mr. NG Siu-tung	Engineer	3903 6803	3188 3420

4. The scope of this assignment, which is currently expected to commence in April 2018, is indicated in the draft Brief given in **Annex A** of the EIP. The draft Schedule of Fees is also given in **Annex B** of the EIP.

5. If you are interested in this assignment, please reply to the Works Division, Highways Department for the attention of Principal Project Coordinator/PHL, at 7/F., Trade and Industry Tower, 3 Concorde Road, Kowloon before **12:00 noon on 30 October 2017 (Monday)**, by submitting **seven** sets of documents containing the following information in a maximum of **six** A4 size pages with a minimum font size of 12 points in “Times New Roman” font type at a minimum of single line spacing:-

- (a) your board approach to the problem;
- (b) previous relevant commissions;
- (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 letter should be construed accordingly); and
- (e) your comments, if any, on the draft Brief given in **Annex A** of the EIP and the draft Schedule of Fees given in **Annex B** of the EIP.

6. Please note that no attachment, 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 shall be submitted in sealed envelope(s) clearly indicating your company’s name and the assignment reference (i.e. Agreement No. CE 28/2017 (HY)) and marked “Restricted (Contract)”.

8. 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** - Requirements for Submission of Proposal in Electronic Format. All proposals, whether submitted in electronic format or hard copy format, will be evaluated on an equal basis. Notwithstanding paragraph no. 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 the fifth paragraph of this notice.

9. The electronic documents for preparing your submission are listed in Schedule 2 to the Licence Conditions for the EIP (**Annex D** of the EIP). You will be deemed to have accepted these conditions if you use these documents listed in Schedule 2.

10. 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 above deadline, the deadline will be extended to 12:00 noon on the following working day. Saturday is not counted as a working day.

11. 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 E** of the EIP.

12. 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).

13. Your attention is drawn to Environment, Transport and Works Bureau Technical Circular (Works) (“ETWB TCW”) No. 18/2005 regarding the requirements on the avoidance of conflicts of interests and debarring. 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. Any involvement or interest declared would be carefully considered but would not automatically bar you from being further considered in the selection process.

14. For information, the Assessment Panel has agreed that for this consultancy, the past performance of sub-consultants will not be assessed in the Technical & Fee Proposal stage.

15. The initial list of qualified consultants approached for this Assignment is given in **Annex F** 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. However, you should note that the Government is not bound to invite technical and fee proposals from any of these consultants expressing an interest.

16. 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 consultants 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-subsidary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap 622), “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.

17. 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. However, the “no-linkage” rule does not apply to “linked” consulting firms (including academic institutions) who bid as sub-consultants only for any agreement.

18. Failing to observe the requirement stated in paragraph 16 and 17 shall render all related expression of interest submitted null and void and any such submission shall not be considered.

19. 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 2017/2018) 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.

20. 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.

21. "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.

22. Your attention is also drawn to ETWB TCW 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.

23. The consultant appointed in the early stage consultancy is a potential bidder, but all the information which was made available to that consultant and all the advice which the consultant has provided and which is relevant to the procurement of this consultancy will be equally made available to all potential consultants upon request as detailed in Appendix B to the Brief.

24. The requirements for ISO 9000 certification are set out at **Annex G** of the EIP.

25. For the avoidance of doubt, the following submissions shall not be counted against the limit of six A4 size pages as described in the fifth paragraph of this notice:

Submissions to be returned to this Office		Relevant paragraphs and pages in this notice
(a)	Declaration of meeting the longlisting criteria	Paragraph 2 on Page 1
(b)	Documentary proof in relation to voting power if you are a limited liability company	Paragraph 12 on Page 3
(c)	Declaration of any involvement or interest in real or apparent conflict with the duties to be performed for this consultancy	Paragraph 13 on Page 3
(d)	Declaration of any linkage with other consultants on the initial list of qualified consultants approached	Paragraph 16 & 17 on Page 3
(e)	Declaration of resident status	Paragraph 21 on Page 4
(f)	Necessary documents to comply with the Requirements of ISO 9000 Certification	Paragraph 24 on Page 4

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

27. 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.

END OF NOTICE