

Notice of Inviting Technical and Fee Proposals through Internet

3 October 2011

Agreement No. HK 1/2011 (HY)

Principal Inspection of Kai Tak Tunnel – Investigation

Invitation for Technical and Fee Proposals

Interested consultants are invited to submit Technical and Fee Proposals for undertaking the above consultancy. Please note that submissions are being invited on a non-commitment basis.

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

- (a) The consulting firm shall be registered and maintain an active office in Hong Kong;
- (b) The consulting firm shall have a total of 10 or less works related professional staff. At least half of the professional staff must be Hong Kong-registered professionals or corporate members of Hong Kong professional institutions in the appropriate disciplines; and
- (c) The consulting firm shall have at least two (2) professional staff in the services of Structural Engineering (S5) or Highway Engineering/Bridges (S9) while at least one (1) of the two (2) professional staff should be in the service of Highway Engineering/Bridges (S9).

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

<u>Name</u>	<u>Post</u>	<u>Telephone</u>	<u>Fax</u>
Mr.CHAN Che Keung	Senior Engineer	2707 7433	2152 0254
Ms Christine Cheung	Engineer	2707 7253	2152 0254

The following documents are enclosed in the EIP for the Consultants' information:-

- (i) Requirements for Submission of Proposal in Electronic Format (Annex A);
- (ii) Memorandum of Agreement (Annex B);
- (iii) General Conditions of Employment of Engineering and Associated Consultants for an Investigation Assignment, 1997 Edition (Annex C);

- (iv) Special Conditions of Employment (Annex D);
- (v) Draft Brief (Annex E);
- (vi) Schedule of Fees (Annex F);
- (vii) Guidelines on Preparation of Technical Proposals (Annex G);
- (viii) Outline of Marking System for Assessing Technical Proposals and Technical/Fee Weighting (Annex H)
- (ix) Proforma for the Presentation of Fee Proposals (Annex I);
- (x) Initial List of Consultants Approached for this Assignment (Annex J);
- (xi) Selection Criteria for Submissions to be Considered Further (Annex K)
- (xii) Licence Conditions for Electronic Invitation Packages; and
- (xiii) Reply Slip for Acknowledgement of Receipt of Invitation Letter and the enclosures.

The scope of this assignment, which is to commence in December 2011, is indicated in the draft Brief (see Annex E).

A pre-submission meeting will be held at **2:00 p.m. on 17 October 2011 (Monday)** in the Conference Room 1317, 13/F, Nan Fung Commercial Centre, 19 Lam Lok Street, Kowloon Bay, Kowloon. The purposes of the meeting are to elaborate on the Draft Brief, answer queries and ensure that you are fully aware of the requirements of the consultancy, and of the requirements for the Technical and Fee Proposals. I should be grateful if you would submit to me your queries, if any, **on or before 12 October 2011 (Wednesday)** and the names of your representatives who will attend the pre-submission meeting.

Please note that the draft Brief and Schedule of Fees will be finalized following the pre-submission meeting.

As a prerequisite for your submission to be considered, you must satisfy the requirements as stipulated in Part 1 of Annex K. Also you are required to declare the amount of outstanding work in hand by providing a list of all current assignments with the Government and other clients. For each assignment, please provide details on scope of assignment, name of client, consultancy fees, and percentage of work outstanding. Please complete Part 2 of Annex K and return it to me together with your submission. Failure to do so will result in your submission not being considered.

If you wish to be considered for possible appointment, you should submit your Technical and Fee proposals by **12:00 noon on 4 November 2011 (Friday)**. You should submit **six** copies of your Technical Proposal in a sealed envelope clearly indicating the consultants' name and project reference and **two** copies of your Fee Proposal in another sealed envelope clearly indicating the consultants' name and project reference both addressed to the Senior Treasury Accountant of the Highways Department and deposit them in the Highways Department Tender Box situated at the Headquarters of Highways Department on 5/F, Homantin Government Offices, 88 Chung Hau Street, Homantin, Kowloon. Late submissions or submissions with Technical Proposals that do not conform to the requirements in respect of the number of pages shall 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.

Your attention is also drawn to the following:

Fee Proposal Proforma

- (i) You are reminded not to alter the format or text of the Fee Proposal Proforma. You are also reminded to exercise extreme care in completing the Proforma to ensure consistency throughout the Fee and Technical Proposals; and

ETWB TCW No. 3/2005 regarding the novation of consultancy agreement.

- (ii) 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 engaged such a consultant as sub-consultant would not be considered.

You shall submit, together with the Technical Proposal, a copy of your ISO 9001:2008 certificate acceptable to the Employer showing the scope of certification and a statement either:

- (i) confirming that there is no area/aspect in the consultancy agreement which your quality system specifically excludes; or
- (ii) disclosing the areas/aspects in the consultancy agreement which your quality system specifically excludes.

Subject to the following paragraphs, submissions from consultants who have not obtained ISO 9001:2008 certification on or before the date of this invitation may not be considered.

If the consultants, due to circumstances beyond its control, have not obtained ISO9001:2008 certification but a full review of the Quality Manual of its Hong Kong office has been carried out in Hong Kong by a certification body acceptable to the Employer and such Quality Manual has been confirmed by the certification body as being in conformity with the requirements of ISO 9001:2008 standard on or before the date of this invitation, the submission by the consultants will still be considered provided that the consultants shall undertake in writing, if it is awarded the consultancy agreement, to book within three months of the award of the consultancy agreement, the date of audit for the ISO 9001:2008 certification with the certification body, with detailed documented quality system procedures ready at the time of booking. The booking of the audit shall be a condition precedent to the consultants' entitlement to any payment or any further payment of fees under the consultancy agreement.

If the consultants, whose scope of certification excludes site activities service which is required to be provided by the consultants under the consultancy agreement, its

submission will be considered to be non-conforming in respect of the certification requirements. Provided that the consultants can prove to the satisfaction of this Department that such exclusion is due to circumstances beyond its control, the proposal may still be considered to be conforming in respect of the certification requirements provided that the consultants shall undertake in writing that if the consultants are awarded the consultancy agreement, it shall apply within three months of the award of the consultancy agreement to the certification body for revision of its current scope to cover site activities service with detailed documented quality system procedures ready at the time of applying for revision. The submission of an application for revision of the scope of its ISO 9001:2008 certification to cover site activities service shall be a condition precedent to the consultants' entitlement to any payment or any further payment of fees under the consultancy agreement.

If the consultants are joint venture, the consultants shall submit, together with the Technical Proposal, a statement declaring that it shall implement the quality system of one of its partners or shareholders, and specifying which one. The reference to ISO 9001:2008 certificate, ISO 9001:2008 certification and Quality Manual in the above paragraphs shall refer to that of the specified partner or shareholder. The consultants shall also submit a copy of the written notification to the certification body of the specified partner or shareholder that the joint venture shall implement the quality system by the specified partner or shareholder and the written agreement that the activities of the joint venture shall be subject to the surveillance of the certification body.

Further requirements on the QA Certification are set out in WBTC No. 13/2001.

The electronic documents for preparing your submission are included in the EIP and are listed in Schedule 2 to the Licence Conditions for Electron Invitation Packages for using these documents. You will be deemed to have accepted these conditions if you use the documents listed in Schedule 2. The electronic documents in Schedule 2, which are referred to as Electronic Invitation Package (EIP), have been digitally signed by using an e-Cert issued by the Hongkong Post.

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 A – 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. Irrespective of whether the submission is in hard copy format or electronic format, you should submit the Technical Proposal and Fee Proposal to the Highways Department Tender Box by hand as mentioned above.

Your submission should be concise and accurate and should comply with the following conditions:

- (i) Each consultant must provide information in the Technical Proposal on the manpower input for the assignment. You are therefore required to state your proposed total professional and technical manpower input in terms of man-weeks. However, you should not provide any information in the Technical Proposal on charge rates or fees.
- (ii) In addition, you are required to give a manning schedule (with charge rates and fees), in a bar-chart form, to show the time input of key staff such as Study Directors, Managers and Team Leaders of the relevant disciplines. The manning schedule (with charge rates and fees) should be included in the Fee Proposal only and not in the Technical Proposal.
- (iii) The proposed lump sum fee on the first page of the Fee Proposal shall be equal to the total fee for staff and non-staff charges for all stages in the summary breakdown of lump sum fee. The information/data, in particular, the manpower input in the Fee Proposal, shall tally with the Technical Proposal.
- (iv) The proposed all-inclusive time charge rates for additional Services could be different from the staff charge rates indicated in the manning schedule at sub-paragraph (ii) of this paragraph.

We will not accept Fee Proposals where:

- (i) the lump sum fee on the first page of the Fee Proposal is different from the total fee for the staff and non-staff charges for all stages in the summary breakdown of lump sum fee; or
- (ii) the percentage difference between the “staff rates for additional Services” and the “staff rates in lump sum fee” exceeds the “Specified Percentage Range” given in DEVB TC(W) No. 2/2010 (Consultants’ Fee Proposal).

Where the lump sum fee on the first page of the Fee Proposal is different from the total fee for the staff and non-staff charges for all stages in the summary breakdown of lump sum fee or the information/data, in particular, the manpower input in the Fee Proposal, does not tally with the Technical Proposal, you will be asked to rectify the discrepancy by correcting arithmetic errors or making adjustments to the unit charge rate or amending any information/data in the Fee proposal to bring it in line with the Technical Proposal, where appropriate. If you fail to rectify the discrepancy by a specified deadline, your submission will be disqualified and will not be considered. You are not, however, allowed to make any adjustment to the lump sum fee, all-inclusive time charge rates and on-cost rates on the first page of the Fee Proposal.

In respect of each category of staff specified in the prescribed Fee Proforma for “additional services”, irrespective of the number of sub-consultancies that may be involved, only ONE time charge rate shall be inserted as specified. Submissions which do not comply with this requirement shall not be considered.

Your attention is drawn to the requirement to insert the all-inclusive time charge rates in respect of each category of staff specified in the prescribed Fee Proforma (see Annex I) for “additional services”, which information is essential for bid comparison purpose and for payment/management of the Consultants upon award of the Assignment. If a zero rate is inserted for any or all of these rates we will seek confirmation from you to abide by the bid with the zero rate(s) so proposed for bid comparison purpose and for payment/management of the Consultants upon award of the Assignment. If you fail to put in any or all of these rates, the relevant rate(s) shall be corrected by deeming the rate(s) as zero and we will seek confirmation from you to abide by the bid with the relevant rate(s) so corrected for bid comparison purpose and for payment/management of the Consultants upon award of the Assignment. If you confirm your agreement to abide by the bid with the rate(s) so proposed and/or corrected, the comparative assessment of technical and fee proposals would then be completed in the usual prescribed manner in accordance with Appendix 3.16 of the EACSB Handbook on the basis of the proposed fee and/or rates with such rate(s) so corrected and confirmed. If you fail to confirm your agreement to abide by the bid with the rate(s) so proposed and/or corrected in writing by a specified deadline, your bid shall not be considered further for this consultants selection exercise.

Your attention is also drawn to the units of the rates as specified in the prescribed Fee Proforma (see Annex I). Where any of the units of the rates as presented on the first page of the Fee Proposal you have submitted differs from the unit(s) of the respective rate(s) specified in the prescribed Fee Proforma, such discrepancy shall be corrected by regarding the former as an inadvertent typographical error and the unit(s) concerned in the Fee Proposal submitted shall be automatically corrected to the corresponding unit(s) as per the prescribed Fee Proforma. For such corrections, only the units are to be so corrected, but not the numerical figures as filled in by you in the Fee Proposal submitted. We will then seek confirmation from you to abide by the bid with units so corrected. If you confirm your agreement to abide by the bid with units corrected, the comparative assessment of technical and fee proposals would then be completed in the usual prescribed manner in accordance with Appendix 3.16 of the EACSB Handbook on the basis of the proposed fee and/or rates with units so corrected and confirmed. If you fail to confirm your agreement to abide by the bid with units so corrected in writing by a specified deadline, your bid shall not be considered further for this consultants selection exercise.

You are required to confirm that you agree to abide by your Technical and Fee Proposals for a period of ninety (90) days from the due date for submission of Technical and Fee Proposals and it shall remain binding upon you and may be accepted at any time before the expiration of that period.

The initial list of consultants approached for this Assignment is shown in Annex J. Based on the assessment of Technical Proposals, normally four suitable firms will be selected for combined technical and fee assessments.

The Technical Proposals will be assessed by an Assessment Panel, which comprises one marking member from Transport Department, and three marking members from Highways Department. The Assessment Panel has agreed that for this consultancy,

the past performance of sub-consultants will be one of the assessment criteria in the assessment of Technical Proposals.

The names of the selected consultants, the total mark awarded to each for technical merit, together with the lump sum fee, time-charge rates and manpower input proposed by each, will be made known to those, and only those, consultants making submissions and of which the technical and fee proposals have been completely assessed in the combined assessment. I would also like to draw your particular attention to the requirements stipulated in Clause S3 of the Special Conditions of Employment (see Annex D) regarding the disclosure of fees payable to the selected consultant.

In the case of a submission in the joint name of two or more consultants, documentary proof of formal association for the purpose of undertaking this study should be provided at the same time. Similar proof of agreement with firms, organizations or individuals who will act as your sub-consultants should also be submitted.

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

No consultants are permitted to submit more than one bid for the same agreement. For the avoidance of doubt, consultants who submitted 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 consultancy agreement. Only one firm among such consultants, as the case may be, should be allowed to submit Technical and Fee Proposals for a consultancy agreement. You are thus required to declare any linkage with other consultants on the list as shown in Annex J. 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 Technical and Fee Proposals.

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 set of Technical and Fee Proposals for the same consultancy agreement. You are also required to declare any such linkage with other consultants on the list as shown in Annex J, 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 Technical and Fee Proposals submitted null and void and any such submission shall not be considered.

You are reminded of Government's policy on competitive selection. The Fee Proposal submitted should be your best price determined without reference to any other consultants approached for this Assignment. Failure to observe this condition may cause the Proposal to be disqualified.

The selection of consultants will be determined on the basis of a comparative assessment of technical merit and fee.

Subject to the Government's right to reject bids which are considered to have been priced unreasonably low, the selection of consultants will be determined on the basis of a combined assessment of technical merit and cost. Your Fee Proposal will be construed as a bid for this consultancy and, unless under very special circumstances, there will be no fee negotiations.

The Government is not bound to accept any proposal it may receive. In addition, the Government will reject bids which are considered to have been priced unreasonably low.

You are also reminded that, as a general policy, importation of labour from outside Hong Kong is not allowed by the Immigration Department, save that in some circumstances, the Director of Immigration may permit the importation of key management and technical personnel on a temporary basis.

You should indicate in your staffing proposal which of the proposed staff are core personnel and the employment status (i.e. fulltime or not) at the time of bidding of each and every core personnel to be deployed by you or your sub-consultants in this assignment. You should produce undertaking signed by all non-fulltime core personnel (of yourself or your sub-consultants) to confirm their involvement in the event that you are awarded the consultancy.

Documents of unsuccessful consulting firms will be destroyed three months after the date the consultancy has been awarded and the agreement 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.

Your attention is drawn to Clause S5 of the Special Conditions of Employment (see Annex D) together with Clause 19 of the Draft Brief (see Annex E) regarding the professional indemnity insurance requirement under the Agreement. Please refer to

DEVB TCW No. 9/2007 for details. Please also note Clauses S11, S13, S14, S15, S16, S17 and S18 of the Special Conditions of Employment regarding confidentiality, prevention of bribery, conflict of interest and debarring, declaration of ethical commitment, acknowledgement of being notified of the ethical requirements, retention of documents and inspection and tax withholding. For details, please refer to ETWB TCW Nos. 3/2004, 3/2004A, 30/2004, 34/2004 and 18/2005.

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 2010/2011) 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, anyone 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 in ETWB TC(W) No. 34/2004.

The documents and reports as listed in Appendix B of the draft Brief are available for inspection by appointment with our engineer, Ms Christine CHEUNG, at telephone no. 2707-7253 or at e-mail address: echt2.u@hyd.gov.hk.

If you require further details, please contact our senior engineer, Mr. C. K. Chan, at 2707 7433 or our engineer, Ms Christine CHEUNG at 2707 7253.