

Notice of Inviting Technical and Fee Proposals through Internet

9 July 2012

Agreement No. WD 12/2012 Braemar Hill Pedestrian Link Alignment Selection – Feasibility Study

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

- (i) The consulting firm shall be registered and maintain an active office in Hong Kong.
- (ii) The consultants should have at least the prescribed number of professional staff resident in Hong Kong with sufficient knowledge and experience in each of the following service categories:

Category	Minimum No. of Professional Staff
S1 – General Civil Engineering	1
S2 – Geotechnical Engineering/Geology	1
S5 – Structural Engineering	1
S8 – Traffic Engineering/Transportation	3
S9 – Highway Engineering/Bridges	2
S12 – Urban Planning and Landscaping	1
S13 – Electrical and Mechanical Engineering	1

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</u>
Mr. T. K. TSANG	Senior Engineer	3188 3282	3188 3420
Ms. H. Y. WONG	Engineer	3188 3278	3188 3420

The following documents are enclosed in the Electronic Invitation Package (EIP) for the Consultants' information:

- i) Memorandum of Agreement;
- ii) General Conditions of Employment of Engineering and Associated Consultants for a Feasibility Assignment, 1997 Edition;
- iii) Special Conditions of Employment;
- iv) Schedule of Fees;
- v) Draft Brief;
- vi) Guidelines on Preparation of Technical Proposal;
- vii) Proforma for the Presentation of Fee Proposal and Notes on the Preparation of Fee Proposal;
- viii) Initial List of Consultants Invited to Submit Technical and Fee Proposals;
- ix) Annex 1 of EIP – Licence Conditions for Electronic Invitation Packages;
- x) Annex 2 of EIP – Requirements for Submission of Proposal in Electronic Format;
- xi) Annex 3 of EIP – Notes to the Requirements of Quality Management System Certification of Consultants;
- xii) Annex 4 of EIP – Notes to the Requirements of Tax Withholding for Non-resident Consultants;
- xiii) Annex 5 of EIP – Sample Declaration Letter for Resident Status of Consultants;
- xiv) Annex 6 of EIP – Agenda for Pre-submission Meeting; and
- xv) Annex 7 of EIP – Acknowledgement Slip.

The scope of this Assignment, which is currently expected to commence in September 2012, is detailed in the Draft Brief given in the EIP.

If you wish to be considered for possible appointment, you should submit your Technical and Fee Proposals **by 12:00 noon on 6 August 2012**. You should submit **six (6) copies** of the Technical Proposal in sealed envelope (marked “Restricted (Contract)”) clearly indicating the consultants’ name and the agreement number to the Senior Treasury Accountant of the Highways Department which shall be placed in the Highways Department Tender Box at 5/F, Homantin Government Offices, 88 Chung Hau Street, Homantin, Kowloon, and submit **two (2) copies** of your Fee Proposal in a sealed envelope (marked “Restricted (Contract)”) clearly indicating the consultants’ name and the agreement number to the Senior Treasury Accountant of the Highways Department which shall be placed in the Highways Department Tender Box at 5/F, Homantin Government Offices, 88 Chung Hau Street, Homantin, Kowloon. Late submissions or submissions with Technical Proposals that do not conform to the requirement in respect of the number of pages shall not be considered.

The maximum size of submission which can be deposited into the Highways Department Tender Box is 710 mm x 640 mm x 100 mm. 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 Technical and Fee Proposals, the closing date shall be extended to 12:00 noon on the following working day (excluding Saturday). Late submissions shall not be considered.

The electronic documents for preparing our submission are included in the EIP and are listed in Schedule 2 to the “Licence Conditions for Electronic Invitation

Packages” attached in **Annex 1 of the EIP** for using these documents. You will be deemed to have accepted these conditions if you use the documents listed in Schedule 2.

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” attached in **Annex 2 of the EIP**. All proposals whether submitted in electronic format or in hard copy format, will be evaluated on an equal basis.

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 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”, for either professional or technical staff, exceeds the “Specified Percentage Range” of -75% to +75% given in DEVB TC(W) No. 2/2010.

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 within three (3) working days (excluding Saturday) of the date of the request for rectification, your submission shall be disqualified and shall not be considered. You are not, however, allowed to make any adjustment to the lump sum fee and all-inclusive time charge 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 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 attached to this letter. 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 attached for your information. Based on the assessment of Technical Proposals, normally four (4) suitable firms will be selected for combined technical and fee assessments.

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 SCE1 of the Special Conditions of Employment 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.

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 Technical and Fee Proposals 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 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 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 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.

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.

The consultant shall submit, together with its consultancy proposal, a copy of its ISO 9001:2008 certificate acceptable to the Employer showing the scope of certification and a statement either:

- (A) confirming that no area/aspect in the consultancy agreement which its quality system specifically excludes; or
- (B) disclosing the areas/aspects in the consultancy agreement which its 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 consultant, due to circumstances beyond its control, has not obtained ISO 9001:2008 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 consultant will still be considered provided that the consultant 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 consultant's entitlement to any payment or any further payment of fees under the consultancy agreement.

If the consultant whose scope of certification excludes site activities service which is required to be provided by the consultant under the consultancy agreement, its submission will be considered to be non-conforming in respect of the certification requirements. If the consultant can prove to the satisfaction of Highways 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 consultant shall undertake in writing that if the consultant is 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 consultant's entitlement to any payment or any further payment of fees under the consultancy agreement.

If the consultant is a joint venture, the consultant shall submit, together with its consultancy 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 referred to in the above paragraphs shall refer to that of the specified partner or shareholder. The consultant 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 participant or shareholder and the written agreement of all participants, or as the case may be, shareholders of the joint venture that the activities of the joint venture shall be subject to the surveillance of the certification body.

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 2008/09 onwards) 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 at **Annex 5 of the EIP**.

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 (3) 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.

In connection with this invitation, you are cordially invited to send at most two (2) representatives to attend a pre-submission meeting scheduled as follows:

Date: 18 July 2012 (Wednesday)

Time: 10:00 a.m.

Venue: Room 1601, 16/F, Skyline Tower, 39 Wang Kwong Road, Kowloon Bay, Kowloon

The purposes of the meeting are to answer queries and to ensure that you are fully aware of the requirements of the consultancy, and of the requirements for the Technical and Fee Proposals. I would be grateful if you would submit to Mr. T. K. TSANG at telephone no. 3188 3282 or Ms. H. Y. WONG at telephone no. 3188 3278 your queries, if any, **on or before 16 July 2012** and the names of your representatives who will attend the pre-submission meeting. An agenda for the meeting is in **Annex 6 of the EIP**.