

Notice of Inviting Submission of Technical and Fee Proposals through Internet

10 January 2018

Agreement No. CE 83/2017 (HY) Independent Checking of the Costs for Re-provisioning of Siu Ho Wan Depot and for Delivery of Siu Ho Wan Station - Investigation

1. 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.

2. Consultants shall fulfil and declare that they have met the following selection criteria for their submissions to be considered:

- (a) The consultants should have adequate professional staff of appropriate local experience; and
- (b) At least one professional staff residing in Hong Kong with relevant expertise in the professional service categories from (1) General Civil Engineering, (2) Railway Engineering, and (3) Quantity Surveying, are required to be provided throughout the Assignment. Staff having qualification of more than one service category will be considered. Therefore, the total number of staff to be provided for the required three service categories does not necessarily equal to three.

3. Interested consultants may obtain an Electronic Invitation Package (“EIP”) (EIP Ref: EIP-CE 83/2017-T&F-0) in the context of Works Bureau Technical Circular 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. C H KAM	Senior Project Coordinator	2762 4038	2761 1508
Mr. Steve M K TANG	Engineer	2762 4159	2761 1508

4. The following electronic documents for the Consultants’ information and submission are included in the Electronic Invitation Package Ref: EIP-CE 83/2017-T&F-0 and are listed in Schedule 2 to the attached Licence Conditions for Electronic Invitation Packages (EIP) in **Annex A** to the EIP. You will be deemed to have accepted these conditions if you use the documents listed in Schedule 2.

- (i) Memorandum of Agreement (for a Single Consultant and for a Joint Venture of Consultants);
- (ii) General Conditions of Employment of Engineering and Associated Consultants for an Investigation Assignment (1997 Edition);
- (iii) Special Conditions of Employment;
- (iv) Schedule of Fees;
- (v) Brief;
- (vi) Guidelines on Preparation of Technical Proposal;
- (vii) Proforma for the Presentation of Fee Proposal (hereinafter referred to as Fee Proposal Proforma);

- (viii) Initial List of Consultants Approached for this Assignment;
- (ix) Agenda for Pre-submission Meeting;
- (x) Licence Conditions for EIP (Annex A);
- (xi) Requirements for Submission of Proposal in Electronic Format (Annex B);
- (xii) Conditions of Appointment relating to “no other involvement in the Project” (Annex C);
- (xiii) Qualification and Experience Requirements for the Categories of Staff (Annex D);
- (xiv) Provisions of Retention of Money Payable to Non-resident Consultant for Settlement of Profits Tax (Annex E); and
- (xv) Acknowledgement of Receipt and Reply Slip for Pre-submission Meeting (Annex F).

5. 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 submission shall be prepared and submitted in accordance with **Annex B** to 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.

6. If you wish to be considered for possible appointment, you should submit your Technical and Fee Proposals by **12:00 noon on 26 January 2018 (Friday)** (the “closing date”). You should submit six (6) copies of the **Technical proposal** to the **Highways Department Tender Box at 5/F., Ho Man Tin Government Offices, 88 Chung Hau Street, Homantin, Kowloon for the attention of Senior Treasury Accountant, Highways Department** and submit two (2) copies of your **Fee Proposal** in a **sealed envelope** clearly indicating the consultants’ name and project reference (i.e. Agreement No. CE 83/2017 (HY)) to the Chairman of EACSB at Civil Engineering and Development Department, 15/F., Civil Engineering and Development Building, 101, Princess Margaret Road, Homantin, Kowloon. The maximum size of submission which can be deposited into the Highways Department Tender Box is 740mm x 640mm x 100mm. If a black rainstorm warning signal or tropical cyclone signal No. 8 or above is hoisted between 9:00 am 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. Late submissions shall not be considered.

6A.1 Consultants shall note that it is a condition for appointment under the Agreement No. CE 83/2017 (HY) (“the Agreement”) that they (or any of their associated companies, associates or associated persons, all their staff likely to be employed for the Agreement and sub-consultants) have not undertaken, nor will they undertake at the same time during the term of the Agreement (as far as the position can be ascertained when nomination for appointment is made), any services, tasks or jobs or doing anything whatsoever for or on behalf of any third party (hereinafter “involvement”) which touches, concerns or affects the Project except the involvement or involvements referred to in paragraph 6A.1.1 below and the details of which are given in the declaration form submitted by the Consultants in accordance with paragraph 6A.2 below. The terms “associated companies”, “associates” and “associated persons” shall have the meaning as assigned to them in Special Conditions of Employment SCE19(H) (SCE on “Conflict of Interest and Debarring” refers).

6A.1.1 If the Consultants (or any of their associated companies, associates or associated persons, all their staff likely to be employed for the Agreement and sub-consultants) have previously undertaken and/or are currently undertaking any involvement which touches, concerns or affects Agreement No. CE 83/2017 (HY)

the Project, such involvement will be carefully considered and the Employer shall have absolute discretion to determine whether or not to nominate the Consultants for appointment for the Agreement which shall be without prejudice to any other rights and discretion of the Employer for the same.

6A.2 Consultants are therefore required to declare and confirm all their past, current and future involvement (and that of any of their associated companies, associates or associated persons, all their staff likely to be employed for the Agreement and sub-consultants) which touches, concerns or affects the Project, whether directly employed by MTR Corporation Limited or employed as its sub-consultants or sub-contractors, and whether as an employee of MTR Corporation Limited or any of its consultants, sub-consultants, contractors or sub-contractors. Consultants shall complete the sample declaration form given in **Annex C** to the EIP and submit it together with the Technical and Fee Proposals. Failure to do so may render the Technical and Fee Proposals not to be considered further.

6A.3 Consultants who have submitted bids/tenders for any involvement which touches, concerns or affects the Project (including the scenario where their associated companies, associates or associated persons, all their staff likely to be employed for the Agreement and sub-consultants have submitted such bids/tenders) but the result of which has not yet been available as at the date set for close of submission are still allowed to submit the Technical and Fee Proposals for the Agreement. However, Consultants should note that they will not be nominated for appointment for the Agreement unless as at such time when nomination is considered they can confirm that (i) the result of the relevant bids/tenders for such involvement has been available and that the bid/tender has not been accepted or (ii) the relevant bid/tender has been withdrawn. The Employer will send out a request to all the Consultants who have submitted a bid for the Agreement for such confirmation to update the position before nomination for appointment is made. Only the Consultants which have satisfied the “no other involvement in the Project” rule as set out herein are eligible for nomination for appointment for the Agreement.

7. 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 manpower input under six categories of staff¹ (viz. partners/directors, chief professional, senior professional, professional, assistant professional and technical staff) in terms of man-weeks and include a manning schedule in a bar-chart form, to show the time input of key staff such as Project Director, Project Manager and Team Leader(s) under the six staff categories. 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 the Fee Proposal. The manning schedule (with charge rates and fees) should be included in the Fee Proposal **only** and not in the Technical Proposal.

¹ The qualification and experience requirements are attached at **Annex D** to the EIP to this letter. Only the qualification and experience obtained by the proposed staff on or before 26 January 2018 shall be counted.

- (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 subparagraph (ii) of this paragraph.

8. We shall **not** accept any Fee Proposal 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”.

9. Where the lump sum fee on the first page of the Fee Proposal is different from the total fee for 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** 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.

10. In respect of each category of staff specified in the prescribed Fee Proposal Proforma for “additional Services”, irrespective of the number of sub-consultants 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.

11. 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 Proposal Proforma for “additional Services”, which information is essential for bid assessment 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 assessment 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 assessment 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 combined score assessment of Technical and Fee Proposals would then be completed in the prescribed manner in accordance with Development Bureau (DEVB) Technical Circular (Works) (TC(W)) No. 2/2016 and its subsequent updates (if any) 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.

12. Your attention is also drawn to the units of the rates as specified in the prescribed Fee Proposal 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 Proposal 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 Proposal 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 combined score assessment of Technical and Fee proposals would then be completed in the prescribed manner in accordance with DEVB TC(W) No. 2/2016 and its subsequent updates (if any) 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.

13. The initial list of consultants approached for this Assignment (the Distribution List) is given in the EIP for your information. Upon completion of the assessment of Technical Proposals, Fee Proposals of those consultants that are considered technically capable of undertaking this Assignment will normally be opened and combined score assessment of Technical and Fee Proposals will be carried out in accordance with DEVB TC(W) No. 2/2016 and its subsequent updates (if any).

14. Your attention is drawn to Clause SCE13 of the Special Conditions of Employment regarding the professional indemnity insurance requirement under the agreement. Please also refer to DEVB TC(W) No. 9/2007 for details of the above.

15. You are required to confirm that you agree to abide by your Technical and Fee Proposals for a period of one hundred and twenty (120) 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.

16. The name of the consultant awarded the consultancy agreement, the combined score and technical score awarded to each bidder, together with the lump sum fee, adjusted notional value for additional Services, fee quality score, and manpower input proposed by each bidder where appropriate, will be made known to those, and only those, consultants making submissions and of which their Technical and Fee Proposals have been completely assessed in the combined score assessment after completion of this consultant selection exercise. You will be deemed to agree to the disclosure of the above-mentioned information of your bid to the other relevant bidders. 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 consultant awarded the consultancy agreement.

17. 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 Assignment 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.

18. 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).

19. 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.

20. 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 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 Technical and Fee Proposals.

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

22. Failure to observe the requirement stated in paragraphs 20 and 21 shall render all related Technical and Fee Proposals submitted null and void and any such submission shall not be considered.

23. You are required to submit declaration for consultant's resident status with your submission. Please refer to **Annex E** to the EIP for the provisions of retention of money payable to non-resident consultant for settlement of profits tax.

24. The Government has no objection:

- (a) to any consulting firm or its associate or associated person lodging one submission to act as a consultant and concurrently proposing to act as a sub-consultant to another bidding consulting firm in this consultant selection exercise; or
- (b) to different and unconnected consulting firms proposing to engage the same sub-consultant(s) or its/their associate(s) or associated person(s) in this consultant selection exercise,

PROVIDED THAT

- (i) all the relevant circumstances are disclosed in the submissions; and
- (ii) where any consulting firm or its associate or associated person lodges one submission to act as a consultant and concurrently proposes to act as a sub-consultant of another consulting firm in the submission of that other consulting firm, the first-mentioned consulting firm or its associate or associated person shall confirm in its submissions as the consultant and as the sub-consultant that no confidential information, confidentiality restrictions or restraints of trade and business have been contravened in lodging the submissions; and
- (iii) where any consulting firm proposes to act as a sub-consultant of more than one bidding consulting firms, it shall confirm in the submissions of all of those bidding consulting firms that no confidential information, confidentiality restrictions or restraints of trade or business have been contravened in lodging the submissions.

Therefore, you and your sub-consultant(s) are required to confirm that no confidential information, confidentiality restrictions and restraints of trade or business have been contravened in lodging the submissions in which the main consultant and/or sub-consultant may be in common or affiliated with the sub-consultant of another bidder.

25. 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 your submission to be disqualified.

26. 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 score assessment of Technical and Fee Proposals in accordance with DEVB TC(W) No. 2/2016 and its subsequent updates (if any). Your Technical and Fee Proposals will be construed as a bid for this consultancy agreement and, unless under very special circumstances, there will be no fee negotiations.

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

28. 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.

29. 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.

30. The documents listed in Clauses 4.2(i) and (ii) of the Brief are considered necessary for the implementation of the consultancy. You may request to see the documents during the preparation of the submissions. Any documents which are on sale should be purchased by you.

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

32. 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.

33. Please note that a consultant who has requested for novation of consultancy agreements due to winding up of business pursuant to paragraph 6(ii) of ETWB TCW No. 3/2005 will not be awarded any further consultancies. Similarly, bids submitted by consultants who engage such a consultant as a sub-consultant will not be considered. Nevertheless, consultants may propose a change of sub-consultants if the deadline for notification of change has not been lapsed.

34. To resolve queries and to ensure that the eligible consultants are fully aware of the requirements of the Agreement, and of the requirements for the Technical Proposal and Fee Proposal, a pre-submission meeting is scheduled as follows:-

Date : **17 January 2018 (Wednesday)**
Time : **10:00 a.m.**
Venue : **Room 222**
2nd Floor, Ho Man Tin Government Offices,
88 Chung Hau Street,
Homantin, Kowloon

35. The agenda for the pre-submission meeting is enclosed. Representatives from each eligible consultants should be restricted to not more than two (2). Please provide me with the details (name and post) of your representative(s), together with a list of queries that you prepare to ask in the pre-submission meeting by **12:00 noon on 16 January 2018 (Tuesday)**.

36. If you require further details, please contact our Senior Project Coordinator, Mr. C. H. Kam at telephone 2762 4038 or our Engineer, Mr. Steve Tang at telephone no. 2762 4159.

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