

URGENT

香港特別行政區政府 機電工程署
香港九龍啟成街3號

Electrical and Mechanical Services Department
Government of the Hong Kong Special Administrative Region
3 Kai Shing Street, Kowloon, Hong Kong
www.emsd.gov.hk

RESTRICTED (CONTRACT)

Our reference 本署檔號 :

(5) in EMSD/MUN/P/CE 14/2019(EM)

Telephone 電話號碼 :

(+852) 2808 3769

Your reference 來函檔號 :

11 SEP 2019

Facsimile 圖文傳真 :

(+852) 2895 1424

Distribution

Dear Sirs / Madams

**Agreement No.: CE 14/2019 (EM)
Consultancy Study on the Modernisation of Government
Dockyard at Stonecutters Island - Feasibility Study**

Extension of Time for Submission of Technical and Fee Proposals

With reference to our letter on 26 July 2019 (ref. EMSD/MUN/P/CE 14/2019(EM)) regarding the tender invitation of the captioned Agreement, please be informed that the closing date for receipt of tenders for the above Agreement will be extended from 20 September 2019 to 4 October 2019.

If you wish to be considered for possible appointment to undertake the Agreement, you should submit your Technical and Fee Proposals by 12:00 noon on 4 October 2019. You should submit:-

- (i) Three (3) copies of your Technical Proposal to Chief Engineer / Municipal in a sealed envelope clearly indicating the consultants' name and project reference at Tender Box No. 2 located on the ground floor entrance foyer of the Electrical and Mechanical Services Department, 3 Kai Shing Street, Kowloon, Hong Kong, and
- (ii) Two (2) copies of your Fee Proposal in a sealed envelope clearly indicating the consultants' name and project reference to the Chairman of EACSB at Civil Engineering and Development Department, 15/F., Civil Engineering and Development Building, 101, Princess Margaret Road, Homantin, Kowloon.

Your Technical Proposal and Fee Proposal must be deposited in the respective locations as specified above on or before the submission deadline.

Late submission of Technical Proposal and/or Fee Proposal, and/or any Proposal(s) not deposited in the location(s) specified above, shall not be considered. The Government reserves its right to notify you of any disqualification of your submission for any reason(s) after the completion of this consultant selection exercise where appropriate.

Please contact our engineer, Mr. CHAN Sin Cho at Tel. No. (+852) 3155 4096 or email scchan@emsd.gov.hk in case of further enquiries.

Yours faithfully,



(S.M. CHAU)
Chief Engineer / Municipal

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Reply Slip

**Agreement No.: CE 14/2019 (EM)
Consultancy Study on the Modernisation of Government
Dockyard at Stonecutters Island - Feasibility Study**

(Please return this reply slip by fax (+852) 2895 1424), or by email (to scchan@emsd.gov.hk), or by post)

To: Director of E & M Services,
Electrical and Mechanical Services Department,
3 Kai Shing Street, Kowloon, Hong Kong.
(Attn: CE/Mun)

Dear Sirs,

This is to acknowledge receipt of your letter ref. (5) in EMSD/MUN/P/CE 14/2019(EM) dated 11 September 2019.

Signature _____
Name _____
Post _____
For and on behalf of _____
Date _____
Company Chop _____

Distribution

By Post and email

1.	AECOM Asia Company Limited	8/F, Tower 2, Grand Central Plaza 138 Shatin Rural Committee Road Sha Tin N.T. Hong Kong	hk-general-info@aecom.com
2.	Atkins China Limited	13/F, Wharf T&T Centre, Harbour City Canton Road Tsim Sha Tsui Kowloon Hong Kong	info.hk@atkinsglobal.com
3.	Aurecon Hong Kong Limited	16/F, Unit 1608, Tower B, Manulife Financial Centre 223-231 Wai Yip Street Kwun Tong Kowloon Hong Kong	hongkong@aurecongroup.com
4.	Mott MacDonald Hong Kong Limited	3/F, Mapletree Bay Point 348 Kwun Tong Road Kwun Tong Kowloon Hong Kong	mmhk@mottmac.com
5.	Ove Arup & Partners Hong Kong Limited	Level 5, Festival Walk 80 Tat Chee Avenue Kowloon Tong Kowloon Hong Kong	hongkong@arup.com
6.	Talent Mechanical & Electrical Engineers Limited	2/F, Unit 203, Dominion Centre 43-59 Queen's Road East Wan Chai Hong Kong	info@talentme.com
7.	WSP (Asia) Limited	7/F, One Kowloon 1 Wang Yuen Street Kowloon Bay Kowloon Hong Kong	Info.hk@wsp.com Chun-ming.leung@wsp.com

8.	Royal HaskoningDHV	2 Abbey Gardens, Great College Street, Westminster, London, SW1P 3NL United Kingdom	damien.bloor@rhdhv.com andrew.pate@rhdhv.com
9.	Inros Lackner SE	Linzer Str. 3 28359 Bremen Germany	Oliver.Schwarz@inros-lackner.de
10	Pioneer Sea & Air Ltd.	7/F, UML Tower, 42-44 Fui Yiu Kok Street, Tsuen Wan, N.T. Hong Kong	lukeyou@pioneer-group.hk
11	Synrolift AS	Holterkollveien 6, 1448 Drøbak, Norway	rolf-atle.tomassen@syncrolift.com hans.vanherwerden@syncrolift.com
12	Damen Shipyards Gorinchem	Avelingen-West 20 P.O. Box 1 4200 AA Gorinchem The Netherlands	michiel.hendrixx@damen.com
13	Orcades Marine Management Consultants Ltd	Innovation Centre – Orkney Hatston Pier Road Kirkwall Orkney KW15 1ZL United Kingdom	david.thomson@orcademarine.co.uk

Notice of Invitation for Technical and Fee Proposals

[26 July 2019]

Consultancy Agreement No.: CE 14/2019 (EM)
Agreement Title: Consultancy Study on the Modernisation of Government Dockyard at Stonecutters Island - Feasibility Study

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 selection criteria for their submissions to be considered further:-

<p>(A) Have at least three (3) professional staff and</p> <ul style="list-style-type: none">i) One (1) of these professional staff shall be in the Electrical and Mechanical Engineering discipline^{Note 1}ii) One (1) of these professional staff shall be in the General Civil Engineering discipline^{Note 2}iii) One (1) of these professional staff shall be in the Naval Architecture discipline^{Note 3}
<p><u>Remarks:</u></p> <p>Note 1: Professional staff in Electrical and Mechanical Engineering discipline means:-</p> <ul style="list-style-type: none">(i) a Corporate Member of the Hong Kong Institution of Engineers (Electrical, Mechanical, Building Services or Electronics discipline) or equivalent, or(ii) a Registered Professional Engineer of Electrical, Mechanical, Building Services or Electronics disciplines. <p>Note 2: Professional staff in General Civil Engineering discipline means:-</p> <ul style="list-style-type: none">(i) a Corporate Member of the Hong Kong Institution of Engineers (Civil discipline) or equivalent <p>Note 3: Professional staff in Naval Architecture discipline means:-</p> <ul style="list-style-type: none">(i) a Corporate Member of the Hong Kong Institution of Engineers (Marine and Naval Architecture discipline) or equivalent

2a. The scope of this consultancy, which is currently expected to commence in December 2019 is indicated in the Brief. The electronic documents, referred to as the Electronic Invitation Packages (EIP), are included in a CD-ROM. Interested consultants may obtain the EIP for the assignments at the following address during office hour (i.e. 8:30 a.m. to 12:00 p.m. and 1:30 p.m. to 5:30 p.m. from Monday to Friday, except public holidays).

Room G001, G/F,
Contract Advisory Unit,
Electrical and Mechanical Services Department,
3 Kai Shing Street, Kowloon, Hong Kong

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

- i) This Invitation Notice;
- ii) Memorandum of Agreement;
- iii) General Conditions of Employment of Engineering and Associated Consultants for a Feasibility Assignment 1997 Edition;
- iv) Special Conditions of Employment;
- v) Schedule of Fees (draft);
- vi) The Brief (draft);
- vii) Guidelines on Preparation of Technical Proposal;
- viii) Proforma for the Presentation of Fee Proposal;
- ix) Initial List of Consultants Approached for this Assignment;
- x) Manning Schedule Template;
- xi) Statement of Purpose for the Collection of Personal Data.

3. You may make your submission in either electronic format or hard copy format, except that the manning schedule should be submitted in both the prescribed electronic format and 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. The documents for your proposal submitted in electronic format, including manning schedule and any part of the submission which you elect to submit so, shall be prepared and submitted in accordance with **Annex B to Invitation Notice - 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.

4. If you wish to be considered for possible appointment to undertake the Agreement, you should submit your Technical and Fee Proposals by 12:00 noon on **20 September 2019**. You should submit:-

- (i) three (3) copies of your Technical Proposal to Chief Engineer / Municipal in a sealed envelope clearly indicating the consultants' name and project reference at **Tender Box No. 2** located on **the ground floor entrance foyer of the Electrical and Mechanical Services Department, 3 Kai Shing Street, Kowloon, Hong Kong**, and
- (ii) two (2) copies of your Fee Proposal in a sealed envelope clearly indicating the consultants' name and project reference to the Chairman of EACSB at **Civil Engineering and Development Department, 15/F., Civil Engineering and Development Building, 101, Princess Margaret Road, Homantin, Kowloon**.

Your Technical Proposal and Fee Proposal must be deposited in the respective locations as specified above on or before the submission deadline. 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 submission of Technical Proposal and/or Fee Proposal, and/or any Proposal(s) not deposited in the location(s) specified above, shall not be considered. The Government reserves its right to notify you of any disqualification of your submission for any reason(s) after the completion of this consultant selection exercise where

appropriate.

5. 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 staff, partners/directors, chief professional, senior professional, professional, assistant professional and technical staff in terms of man-weeks and include a manning schedule using the template provided, to show the manpower input of key staff in the Technical Proposal. However, you should not provide any information in the Technical Proposal on charge rates or fees. If there is any difference between your proposed total manpower input under six categories of staff and the manpower input shown in the manning schedule, the manning schedule shall prevail. We will seek confirmation from you to abide by the bid with the corrected total manpower input for bid assessment purpose and for management of the Consultants upon award of the Assignment. If you fail to confirm your agreement to abide by the bid with the total manpower input so corrected in writing by a specified deadline, your bid shall not be considered further for this consultants selection exercise.
- (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.
- (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.

6. 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”.

7. 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 14 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, all-inclusive time charge rates and on-cost rates on the first page of the Fee Proposal.

8. 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.

9. (Not used)

10. 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 No. 5/2018** 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.

10b. A central database, namely Public Works Consultants Resources Allocation Register (PWCRAR), has been developed to maintain the manpower input deployed and/or to be deployed by the consultants for the consultancies they are working on for monitoring purpose. The manpower input contained in your Technical and Fee Proposals for the assignment will be input into the PWCRAR. By submission of the Technical and Fee Proposals, you are deemed to have given consent to the Employer to use any information on or in connection with the manpower input contained in your Technical and Fee Proposals and/or contained in any of your submissions to the Employer for other tenders and/or consultancies awarded to you or your sub-consultants for purpose of tender assessment for this Assignment which is in connection with you, your sub-consultants or staff employed.

11. Your attention is also drawn to the units of the rates as specified in the prescribed Fee Proposal Proforma attached to this Invitation Notice. 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 No. 5/2018** 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.

12. The requirements of ISO 9000 certification are set out at **Annex C to Invitation Notice**.

13. You are required to confirm that you agree to abide by your Technical and Fee Proposals for a period of one hundred and eighty (180) 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.

14. The initial list of consultants approached for this Assignment is attached 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 No. 5/2018**, and its subsequent updates (if any).

14b. (Not used)

15. 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, the consultant making submissions and of which their Technical and Fee Proposals have been completely assessed in the combined score assessment after the 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 SCE 1 of the Special Conditions of Employment** regarding the disclosure of fees payable to the consultant awarded the consultancy agreement.

16. 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.

17. 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).

18. 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.

19. 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-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 Technical and Fee Proposals.

20. 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.

21. Failure to observe the requirement stated in paragraphs 19 and 20 shall render all related Technical and Fee Proposals submitted null and void and any such submission shall not be considered.

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

23. 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 consultants and as the sub-consultant that no confidential information, confidentiality restrictions or restraints of trade or 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.

24. 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. The manpower input proposed by the unsuccessful consulting firms and contained in the PWCRAR will be disposed of three months after the date the consultancy has been awarded and the agreement signed or the date when such manpower input is longer required to be used by the Government for tendering purpose, whichever is later.

25. Subject to the Government's right to reject bids which are considered to have been priced unreasonably low, the selection of the 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 **No. 5/2018** 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.

26. 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.

27. 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.

28. 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.

29. The consultants are required, at their own costs and expenses, to make a presentation of their proposals to the Assessment Panel within 10 working days upon notice. The Project Manager shall be the main presenter at the presentation. The consultants which fail to make a presentation as required under this paragraph may not be further considered.

30. Documents of unsuccessful consulting firms will be destroyed three months after the date the

consultancy has been awarded and the Agreement signed.

31. 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.

32. Please note that a consultant who has requested for novation of consultancy agreements due to winding up of business pursuant to paragraph 6(ii) in **Environment, Transport and Works Bureau (ETWB) Technical Circular (Works) (TC(W)) No. 3/2005** will not be awarded any further consultancies. Similarly, bids submitted by the consultants who engage such a consultant as a sub-consultant will not be considered.

33. 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: 15 August 2019

Time: 10:30

Venue: Room A 212, Administrative Building Block A, Government Dockyard, Ngong Shung Road, Stonecutters Island, Sham Shui Po, Kowloon, Hong Kong

34. Representatives from each eligible consultant 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 12 August 2019.

35. If you require further details, please contact Mr. POON Sing Yue, Senior Engineer/ Municipal Sector Division/ Centralised Services (SE/Mun/CS) (at Tel. No. (+852) 2808 3336, email sypoon@emsd.gov.hk) or Mr. CHAN Sin-cho Engineer/ Municipal Sector Division/ Centralised Services/ 2 (E/Mun/CS/2) (at Tel. No. (+852) 3155 4096, email scchan@emsd.gov.hk).

Encl.

Annex A to Invitation Notice – Licence Conditions for Electronic Invitation Packages

Annex B to Invitation Notice – Requirements for Submission of Proposal in Electronic Format

Annex C to Invitation Notice – Requirements of ISO 9000 Certification

Annex D to Invitation Notice – Retention of Money Payable to Non-resident Consultant for Settlement of Profits Tax

- End -

Annex A to Invitation Notice

Licence Conditions for Electronic Invitation Packages (EIP)

EIP Reference	EIP-CE 14/2019-T&F-0
Issue Date	26 July 2019

1. This set of conditions may be cited as "Licence Conditions for Electronic Invitation Packages".
2. In these conditions, unless the context otherwise requires-
 - (a) "EACSB Handbook" means the Handbook on Selection, Appointment and Administration of Engineering and Associated Consultants published by the Engineering and Associated Consultant Selection Board;
 - (b) "Editable File" means a file listed under the column "Editable File" in Schedule 2 hereto containing the editable version of the Invitation Document listed on the same row under the column "Invitation Document". "Editable" in the previous sentence means editable using mainstream computer applications for office automation and computer-aided drafting;
 - (c) "Electronic Invitation Package" (or "EIP") means the electronic files in Schedule 2 hereto;
 - (d) "Employer" means the Government of the Hong Kong Special Administrative Region;
 - (e) "Image File" means a file listed under the column "Image File" in Schedule 2 hereto containing the printed image of the Invitation Document listed on the same row under the column "Invitation Document";
 - (f) "Invitation" means the invitation in Schedule 1 hereto;
 - (g) "Invitation Document" means a document listed under the column "Invitation Document" in Schedule 2 hereto;
 - (h) "Licensee" means the person who uses the EIP and includes, if the person acts on behalf of another person, that other person;
 - (i) "Relevant File" means an electronic file that-
 - (i) is derived from duplication of any files in the EIP; or
 - (ii) contains any contents extracted from any files in the EIP;
 - (j) "Submission" means a submission that may be made by the Licensee in response to the Invitation;
 - (k) "Submission Closing Date" means the closing date for the Submission stipulated in Schedule 1 hereto;

- (l) "Triggering Event" means one of the following events-
 - (i) The Licensee does not make a Submission by the Submission Closing Date;
 - (ii) The Licensee withdraws his Submission;
 - (iii) The Licensee receives a written notice from the Employer advising that-
 - (1) he is not included in the list of consultants to be invited to submit Technical and Fee Proposals in accordance with the EACSB Handbook; or
 - (2) he is not selected as consultant for the consultancy agreement in Schedule 1 hereto.
3. Words importing the singular only also include the plural and vice versa where the context requires. Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.
4. Subject to the provisions hereof, the Employer grants the Licensee, free of charge, a non-exclusive and revocable licence for using the EIP solely for the purpose of preparing the Submission. The Licensee shall not use the EIP for any other purpose. Save as aforesaid, all other rights in the EIP are reserved by the Employer.
5. Insofar as it is necessary for the purpose of preparing the Submission by the Licensee, the Licensee may license its agents, consultants or other persons appointed by him as sub-licensees to use the EIP, subject to the following conditions-
 - (a) The Licensee shall obtain from each sub-licensee an undertaking in writing that the sub-licensee shall not use the EIP for any purpose other than for the purpose of preparing the Submission;
 - (b) The Licensee shall be liable to the Employer for the breach of the undertaking referred to in sub-clause (a) of this Clause by the sub- licensees as if the breach were committed by the Licensee; and
 - (c) The Licensee shall not grant any sub-licensee the right to license other parties to use the EIP.
6. The licence for using the EIP shall expire within seven working days of the occurrence of a Triggering Event. On or before the expiration date of the licence, the Licensee shall-
 - (a) either destroy the Relevant Files in his possession or retain them as archives; and
 - (b) ensure that all sub-licensees have either destroyed the Relevant Files in their possession or retained these files for archive purpose.
7. Any files kept as archives pursuant to Clause 6 shall not be used for any other purposes.
8. The contents of the Editable File and Image File of an Invitation Document are intended to be identical. If there are discrepancies, the Image File shall prevail.

9. The Licensee hereby indemnifies the Employer against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising from a breach or breaches of any of the conditions herein contained.

Schedule 1 – Invitation

Agreement No.	CE 14/2019 (EM)
Agreement Title	Consultancy Study on the Modernisation of Government Dockyard at Stonecutters Island - Feasibility Study
Department	Electrical and Mechanical Services Department
Type of submission	Technical and Fee Proposals
Submission Closing Date	20 September 2019

Schedule 2 – Electronic Invitation Package

Invitation Document	Version No.	Image File	Editable File
Invitation Notice	0	I-T&F-1-CE14_2019-CL-0	E-T&F-1-CE14_2019-CL-0
Memorandum of Agreement	0	I-T&F-2-CE14_2019-MOA-0	E-T&F-2-CE14_2019-MOA-0
General Conditions of Employment of Engineering and Associated Consultants for a Feasibility Assignment (1997) Edition	0	I-T&F-3-CE14_2019-GCE-0	Not applicable
Special Conditions of Employment	0	I-T&F-4-CE14_2019-SCE-0	E-T&F-4-CE14_2019-SCE-0
Schedule of Fees	0	I-T&F-5-CE14_2019-SOF-0	E-T&F-5-CE14_2019-SOF-0
The Brief (draft)	0	I-T&F-6-CE14_2019-BR-0	E-T&F-6-CE14_2019-BR-0
Guidelines for Preparation of Technical Proposal	0	I-T&F-7-CE14_2019-TP-0	E-T&F-7-CE14_2019-TP-0
Proforma for the Presentation of Fee Proposal	0	I-T&F-8-CE14_2019-FP-0	E-T&F-8-CE14_2019-FP-0
Initial List of Consultants Approached for this Assignment	0	I-T&F-9-CE14_2019-ILC-0	E-T&F-9-CE14_2019- ILC-0
Manning Schedule Template	0	I-T&F-10-CE14_2019-MS-0	E-T&F-10-CE14_2019-MS-0
Statement of Purpose for the Collection of Personal Data	0	I-T&F-11-CE14_2019-PICS-0	E-T&F-11-CE14_2019-PICS-0

Annex B to Invitation Notice

Requirements for Submission of Proposal in Electronic Format

The following requirements apply if the proposal is made in electronic format.

1. In this Appendix, unless the context otherwise requires-
 - (a) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.
 - (b) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.
 - (c) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.
 - (d) "Electronic Proposal Package" (or "EPP") means the collection of the electronic files containing the proposal submitted for this invitation.
 - (e) "Organisational e-Cert" means a digital certificate issued under the name of an organisation by a recognised certification authority as defined under section 2 of the Electronic Transactions Ordinance (Cap. 553).
2. EPP shall be submitted on CD-ROM/ DVD-ROM media complying with ISO 9660: 1988 or DVD-ROM media to ISO 13346:1995 standard. All CD-ROMs/ DVD-ROMs should be clearly labelled or marked to indicate the agreement number, the name of the consultant, and the disk number if more than one CD-ROM/ DVD-ROMs is submitted. Each CD-ROM/ DVD-ROMs shall have a "README.rtf" file in the root directory prepared in Rich Text Format and Digitally Signed. This file shall contain at least the following information:
 - (a) general guidance on the use of the electronic files in the EPP (e.g. the file naming convention, directory structure of the CD-ROM/ DVD-ROM, software name and version for viewing the file);
 - (b) a list of all documents submitted in the EPP with the following information-
 - (i) brief description of the contents of the document; and
 - (ii) disk number (if the submission contains more than one CD-ROM/ DVD-ROM) and filename with full path information for the Editable File and/or the Image File;
 - (c) information on the proper setting for viewing, editing, and printing the electronic files, including, without limitations-

- (i) the printer to be used for printing the files;
 - (ii) the paper sizes;
 - (iii) requirements for special fonts; and
 - (iv) any special printing instructions;
- (d) detailed instructions for viewing other type of electronic information or visualisation not covered in paragraph 8 of this Annex.
3. EPP shall be submitted in duplicate. The original and duplicate set of EPP shall be clearly stamped "ORIGINAL" and "DUPLICATE" respectively on the CD-ROM/ DVD-ROM labels.
 4. The write once type CD/ DVD media shall be used for the preparation of EPP. For the avoidance of doubt, re-writable CD/ DVD media shall not be used. The CD-ROM/ DVD-ROM shall be logically closed such that no subsequent change can be made to the EPP.
 5. CD-ROM/ DVD-ROM shall be properly packed and protected to avoid physical damage during the submission process.
 6. If the invitation requires the submission of Fee Proposal and Technical Proposal, EPP shall be split into two parts, which shall be stored and submitted in separate CD- ROMs/ DVD-ROMs. One set of CD-ROMs/ DVD-ROMs, clearly marked "Fee Proposal", shall contain documents as specified in the Guidance for the Preparation of Fee Proposal and shall be submitted in the "Fee Proposal" envelope. The other set of CD-ROMs/ DVD-ROM, clearly marked "Technical Proposal", shall contain the documents as specified in the Guidance for the Preparation of Technical Proposal and shall be submitted in the "Technical Proposal" envelope.
 7. All electronic files in the EPP shall be Digitally Signed. Organisational e-Cert issued under the name of the Consultants shall be used for the purpose of applying digital signatures. The Organisational e-Cert corresponding to the Digital Signatures must be valid as at the submission closing date and time for the Technical and Fee Proposals.

8. (a) The following data formats shall be used for preparing documents in electronic form:-

<i>Type of Document</i>	<i>Editable File</i>	<i>Image File</i>
Text documents	Word	Portable Document Format (PDF)
Schedules or documents in tabular form	Excel; Word	PDF
Drawings	Microstation; AutoCAD; Document Exchange Format (DXF); or Initial Graphic Exchange Standard (IGES)	PDF
Building Information Modeling (BIM)	Commonly available software are acceptable	PDF
Manning Schedule	ISO/IEC 29500:2008 format (.xlsx)	Adobe Acrobat
Other types of documents, including scanned documents or scanned drawings	Not Applicable	PDF

The data formats and associated versions of documents/files to be adopted in the EPP should adhere to the latest OGCIO Interoperability Framework which can be downloaded from the OGCIO website: -

https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html

- (b) If more than one file format are specified, files need to be provided in one of the specified formats only.
- (c) Files prepared in the above format shall not be compressed using file compression programmes and shall not contain any computer instructions, including but not limited to,
- (i) computer viruses; and
 - (ii) macros, scripts and fields that depend on the execution environment and the execution of which will cause changes to the electronic file itself or the information system displaying the electronic record.
9. Electronic files may be submitted in Editable File format or in Image File format or in both type of formats, **except** that the **manning schedule** shall be submitted in Editable File

format. If both type of formats are submitted, the contents of Editable File and Image File of a document should be identical. If there are discrepancies, the Image File shall prevail.

10. As the conversion of drawing files to PDF format may slightly distort the scale of the drawing elements, line scales in both horizontal and vertical directions should be included in drawings files to enable correction factors to be made to compensate for distortion.
11. For documents for fee proposal, two sets of printouts shall be submitted together with the EPP. **For the Manning Schedule in the technical proposal, printout shall be submitted for each Assessment Panel member together with the EPP.** For documents for technical proposal (except the manning schedule) or expression of interest, printouts may optionally be submitted together with the EPP. All printouts shall be clearly stamped "PRINTOUT" and duly signed by the Consultant. The signed printouts shall not be used for assessment unless there are problems in using the files in the EPP.
12. If other type of electronic information, for example, visualisation or modelling, not covered in paragraph 8 above is submitted with the proposal, software necessary for viewing the information shall be supplied with the submission. The software provided must be free of virus and can be run in mainstream PC under Windows operating environment. Necessary licence to use the software must be provided free of charge to the Government for viewing the information. Detailed instructions on setup, usage and removal of the software provided must be included in the submission.
13. Electronic file including the README.doc of the EPP submission shall be deemed as missing from the EPP if that electronic file cannot be opened properly or does not comply with paragraph 7 and/or paragraph 8(b), unless the hard copy of that file has been submitted in the submission.

Annex C to Invitation Notice

Requirements of ISO 9000 Certification

- (1) The Consultant shall submit, together with its Technical Proposal, a copy of its ISO 9001:2015 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.
- (2) Subject to the following paragraphs, submissions from consultants who have not obtained ISO 9001:2015 certification on or before the date of this invitation may not be considered.
- (3) If the Consultant, due to circumstances beyond its control, has not obtained ISO 9001:2015 certification but a full review of the Quality Manual has been carried out 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 9001:2015 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 9001:2015 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.
- (4) 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 Electrical and Mechanical Services Department at 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 9001:2015 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.
- (5) If the consultant is a joint venture, the consultant shall submit, together with its Technical Proposal, a statement declaring that it shall implement the quality system of one of its participants or shareholders, and specifying which one. The reference to ISO 9001:2015 certificate, ISO 9001:2015 certification and Quality Manual referred to paragraphs 1 to 4 above shall refer to that of the specified participant or shareholder. The consultant shall also submit a copy of the written notification to the certification body of the specified participant or shareholder that the joint venture shall implement the quality system by the specified participant or shareholders 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.

Annex D to Invitation Notice

Retention of Money Payable to Non-resident Consultant for Settlement of Profits Tax

- (1) 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 (for the details of the current profits tax rates, please refer to the website of the Inland Revenue Department www.ird.gov.hk.) 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.
- (2) 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.
- (3) "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.
- (4) 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 attached at the **Appendix to this Annex D**.

Appendix to Annex D

Consultancy for the provision of Services for Project

Consultancy Study on the Modernisation of Government Dockyard at Stonecutters Island -
Feasibility Study

To: The Government of the HKSAR

¹We declare that we are Hong Kong Resident / Non-resident [please delete where inappropriate] having regard to the definition of “Non-resident” in Clause 3 of the **Annex D to the Invitation** for consultancy proposal in respect of the Project.

Or

²We declare that our sole proprietor is a Hong Kong Resident / Non-resident [please delete where inappropriate] having regard to the definition of “Non-resident” in Clause 3 of the **Annex D to the Invitation** for consultancy proposal in respect of the Project.

Or

³ We declare that the participants/partners of the Consultants’ unincorporated joint venture/partnership are all Hong Kong Residents having regard to the definition of “Non-resident” in Clause 3 of the **Annex D to the Invitation** for consultancy proposal in respect of the Project.

Or

⁴We declare that the following participants/partners in the Consultants’ unincorporated joint venture/partnership are Non-resident(s) having regard to the definition of “Non-resident” in Clause 3 of the **Annex D to the Invitation** for consultancy proposal in respect of the Project, and the rest of the participants/partners are Hong Kong Residents:

- 1.
- 2.
- 3.

Name of Consultants: _____

Signature of Person authorised to sign the Proposal: _____

Name in block letters _____

Telephone number: _____

Date: _____.

¹ For use where the Consultants are an incorporated company.

² For use where the Consultants are sole proprietorship.

³ For use where the Consultants are an unincorporated joint venture or partnership and all the participants/partners are Hong Kong Residents.

⁴ For use where the Consultants are an unincorporated joint venture or partnership and some but not all the participants/partners are Hong Kong Residents.