

APPENDIX 3.4A SAMPLE INVITATION LETTER FOR TECHNICAL AND FEE PROPOSALS (FOR ONE-STAGE CONSULTANTS SELECTION)

Dear Sirs,

Agreement No. CE _____ / _____

1. I am pleased to invite you to ~~be considered for possible appointment to undertake~~ submit Technical and Fee Proposals for bidding for Agreement No. CE _____ / _____ . Please note that submissions are being invited on a non-commitment basis.

2. The following electronic documents for preparing your submission are included in the attached CD-ROM/DVD-ROM* and are listed in Schedule 2 to the attached Licence Conditions for Electronic Invitation Package (EIP) in Annex ____ to this letter. You will be deemed to have accepted these conditions if you use the documents listed in Schedule 2.

- i) This covering letter;
- ii) Memorandum of Agreement;
- iii) General Conditions of Employment of Engineering and Associated Consultants for a Assignment (_____) Edition;
- iv) Special Conditions of Employment (if any);
- v) Schedule of Resident Site Staff Standards and Duties (if any);
- vi) Schedule of Fees;
- vii) Brief;
- viii) Guidelines on Preparation of Technical Proposals;
- ix) Proforma for the Presentation of Fee Proposals;
- x) Initial List of Consultants Approached for this Assignment; and
- xi) manning schedule template;
- xii) personal information collection statement; and
- ~~xi~~ xiii) Other documents (please state).

* Delete as appropriate

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. If the manning schedule in the submission is made in hard copy format only, you shall provide the same manning schedule in the prescribed electronic format upon request by us. In such circumstance, the manning schedule in hard copy format in the submission made on or before the deadline specified in paragraph 4 below shall prevail. If you elect to make your submission~~The documents for your proposal submitted in electronic format, including manning schedule and any part of the submission which you elect to submit so, the documents for your proposal~~ shall be prepared and submitted in accordance with Annex [____] **【Insert appropriate Annex number】** - Requirements for Submission of Proposal in Electronic Format. Subject to the above, a~~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~~ Proposals by 12:00 noon on _____. You should submit ~~the your~~ Technical ~~proposal~~ Proposal to me 【 please state address 】 and submit two 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, or a black rainstorm warning signal or "extreme conditions after super typhoons" announced by the Government is/are in force 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 of Technical and/or Fee Proposal(s), and/or any Proposal(s) not deposited in the location(s) specified above, or submissions with Technical Proposals that do not conform to the requirement in respect of the number of pages 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~~ 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 in a bar chart form, to show the time-manpower input of key-staff proposed in the Technical Proposals such as Study Project Directors, Project Managers and Team Leader(s) under the [six] categories[†]. 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 in the Technical Proposal and the total manpower input calculated from the monthly breakdown in the manning schedule, the total manpower input calculated from the monthly breakdown in 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 consultant 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,

[†] ~~The qualification and experience requirements are attached at [Annex xxx] to this letter. Only the qualification and experience obtained by the proposed staff on or before [the closing date as stated in para. 4] shall be counted.~~

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 Proposals where:

- (i) the lump sum fee on the first page of the Fee Proposal is different from the total fee for the staff and non-staff charges for all stages in the summary breakdown of lump sum fee; or
- (ii) the percentage difference between the “staff rates for additional Services” and the “staff rates in lump sum fee” exceeds the “Specified Percentage Range”.

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 [_____] days/weeks **【Fill in the numbers of 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 sServices”, irrespective of the number of sub-consultantseies 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. In respect of each category of staff specified in the prescribed Fee Proposal Proforma for “Direct Employment of Resident Site Staff”, only ONE on-cost rate shall be inserted as specified. Submissions which do not comply with this requirement shall not be considered.

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 sServices” and the on-cost rate in respect of each category of staff specified in the prescribed Fee Proposal Proforma for “Direct Employment of Resident Site Staff”, 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.

10a. 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 Proposal, 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 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 ~~p~~p 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. **【For agreements that are administered by works departments and exceeding the Quotation Limit in SPR 220, this paragraph and inclusion of Annex A as an Annex to this letter are mandatory.】** The requirements of ISO 9000 certification are set out at Annex __ to this letter.

13. You are required to confirm that you agree to abide by your Technical and Fee Proposals for a period of ninety (90) **【the procuring department may set a longer validity period, depending on the nature and complexity of the consultancy assignment】** 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. Consultants in Group [number] under the Service Category of [name of Service Category] maintained by EACSB are invited to make Technical and Fee Proposals for this Assignment. The initial list of qualified consultants approached for this Assignment is given in Annex _____ of the EIP attached for your information. Joint ventures with participation of local and/or overseas consultants with at least one of the participants or shareholders being on the above initial list are also invited to make submission of Technical and Fee Proposals for this Assignment. Upon completion of ~~Based on~~ the assessment of Technical Proposals, Fee Proposals of those consultants that are considered technically capable of undertaking this Assignment will normally be opened ~~[four] suitable firms will be selected for 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 technical and fee assessments and its subsequent updates (if any). **【Inclusion of Annex C as an Annex to this letter is mandatory.】**

14a. Your attention is drawn to the bidding restrictions set out in Annex _____ to this letter. **【Inclusion of Annex D as an Annex to this letter is mandatory.】**

14b. If you propose to engage sub-consultants for this Assignment to undertake sub-consulting services under any of the listed Service Categories and/or service discipline having a list of consultants maintained and published by the Government shown in Annex _____ to this letter, **【Inclusion of Annex E as an Annex to this letter is mandatory.】** you must ensure that the sub-consultants concerned have complied with bidding restrictions as set out in Annex _____ **【Inclusion of this Annex to this letter is mandatory - see Paragraph 14a. above】** . Failure to comply with this requirement will lead to disqualification of your Technical and Fee Proposal.

14c. **【Insert if applicable】** For the avoidance of doubt, you are not obliged to engage only the consulting firms on the lists given in Annex _____ to this letter **【Inclusion of Annex E – see Paragraph 14b. above】** for solely undertaking the following services in this Assignment:

【This paragraph can be inserted (i) when the Assignment comprises services outside the listed Service Categories or disciplines and the procuring department considers that the consultants may propose in the submission to engage sub-consultants for undertaking such services, and/or (ii) when the procuring departments would like the consultants to engage sub-consultants with specialized knowledge, overseas experience and/or providing expert/innovative input, etc. Before inserting this paragraph, the procuring department shall check with the list management departments where appropriate or seek prior approval for deviation from bidding restrictions – See Sections 2.3.1(b) and Section 2.3.4 of the Guidelines】

The Technical and Fee Proposal for this Assignment in respect of the sub-consultants solely for the above services will be evaluated on an equal basis, whether the sub-consultants are on the lists given in Annex _____ to this letter **【Inclusion of Annex E – see Paragraph 14b. above】** or not.

14d. **【Insert if applicable】** The list of sub-consulting firms for undertaking sub-consulting service not under any service discipline having a list of consultants maintained and published by the Government is given in Annex _____ to this letter for your information. **【Inclusion of this Annex to this letter is discretionary - see Section 2.3.1(b)(iii) of the Guidelines】** You may consider teaming up with the sub-consulting firms on the list if required for this Assignment. For the avoidance of doubt, this attached list of sub-consulting firms is non-restrictive and for your information only. You are not obliged to engage the sub-consulting firms on the attached non-restrictive list as sub-consultants for this Assignment. The Technical and Fee Proposals for this Assignment in respect of sub-consultants will be evaluated on an equal basis, whether the sub-consultants are on the attached non-restrictive list or not. The Government will not be responsible for any liability in respect of your engagement of sub-consulting firms on the attached non-restrictive list. **【Insert Annex F, if applicable】**

15. The names of the ~~selected consultants~~ awarded the consultancy agreement, the ~~total mark combined score and technical score~~ awarded to each bidder ~~for technical merit~~, together with the lump sum fee, ~~time charge rates~~ ~~adjusted notional value for additional Services~~, ~~[notional Resident Site Staff on-cost rates charges]~~ **【if applicable】**, 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 p~~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 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 _____ of the Special Conditions of

Employment regarding the disclosure of fees payable to the ~~selected~~ 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 ~~study~~ 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. The term “Sub-consultant” or “sub-consultants” should include all individual academic institutions, specialists, advisors, experts and the like proposed to be externally engaged to provide Services under the Agreement, and all references to “Sub-consultants” or “sub-consultants” in this letter should be construed accordingly. For the avoidance of doubt, subject to your confirmation on the employment status, staff seconded from the consultant’s associated companies (subsidiaries, parent / sister companies) not externally engaged as sub-consultants shall be regarded as your own staff for the purpose of tender assessment, including the overloading checking of manpower input, for this Assignment.

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. In your Technical Proposal, you are thus required to declare any linkage with other consultants on the above list. For the avoidance of doubt, if you have no linkage with any consultants on the above list, you are also required to declare the same in the Technical Proposals. 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.

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 consultant's resident status with your submission. Please refer to [Annex__] **【Include Annex B as an Annex to this letter】** 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 consultant 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.

243. 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~~your Proposal~~submission~~ to be disqualified.

254. 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 ~~€~~TTechnical and ~~f~~FFee ~~p~~PProposals 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.

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

low.

276. 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.

287. 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 also indicate which core personnel will undertake the designations of the Project Manager, the Project Director and the [three] Team Leader(s) [the procuring department shall amend it where appropriate to align with the Guidelines for Preparation of Technical Proposal] as required in the Guidelines for Preparation of Technical Proposal. 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.

298. The documents listed in Clause xx *[example, clause 16 for D&C consultancy at Appendix 4.6]* of the Brief are considered necessary for the implementation of the consultancy. *[Insert if applicable, please refer to the then SETW's memo ref (00WNL-02-4) in ETWB(PS) 106/11 dated 6.1.2006 for details: The consultant appointed in the early stage consultancy is a potential bidder, but all the information which was made available to that consultant and all the advice which the consultant has provided and which is relevant to the procurement of this consultancy will be equally made available to all potential consultants upon request.]* You may request to see the documents during the preparation of the submissions. Any documents which are on sale should be purchased by you.

29a. *[Insert if RSS will be employed: You are reminded that relevant sections of the Management Handbook for Direct Employment of Resident Site Staff by Consultants for Public Works Projects promulgated by the Development Bureau (Works Branch) or equivalent will form parts of the Special Conditions of Employment and the Brief of this consultancy agreement. This Handbook can be found in the link below:*

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/index.html]

3029. Documents of unsuccessful consulting firms will be destroyed three months after the date the consultancy has been awarded and the agreement signed. 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 no longer required to be used by the Government for tendering purpose, whichever is later.

31. If sub-consultants are to be employed, you are required to complete the table attached in Annex _____ to this letter indicating, if any, the scope of sub-consulting services to be undertaken by each listed and unlisted sub-consultant to be employed, the relevant listed service category or discipline for which each sub-consultant is to be employed and the corresponding list maintained and published by the Government. Failure to submit the table as required above with the Technical and Fee Proposal will lead to disqualification of consultant's Technical and Fee Proposal. If you have any enquiry in completing the table on whether the sub-consulting service to be undertaken by a sub-consultant is within the scope of a particular listed service category or discipline and would like to seek clarification, your enquiry must be delivered to me by hand before

12:00 noon, _____ **【the procuring department should specify the exact date here, preferably same as the deadline of provision of list of queries for pre-submission meeting】**. The enquiry shall be sufficiently specific to facilitate the preparation of clarification. Late enquiry will not be entertained. **【Inclusion of Annex G as an Annex to this letter is mandatory.】**

329. **【Insert if applicable: Please note that this invitation is made before the necessary funds for the consultancy have been approved. The Government reserves the right to cancel this selection exercise for not having the necessary funds approved or for any other reason, in which case you will accordingly be notified.】** 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.

334. 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 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.

342. 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:- **【Insert details of the pre-submission meeting below】**

Date:

Time:

Venue:

353. Representatives from each eligible consultants should be restricted to not more than [two (2)] **【Insert number】**. 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 _____ **【Insert date】**.

364. If you require further details, please contact _____ at telephone _____.

375. Please acknowledge receipt of this letter and the enclosures by signing and returning the duplicate of this letter.

Yours faithfully,

()

Encl.

c.c.

Secretary, EACSB – w/first 2 pages of Fee Proposal **p**Proforma together with the names of all the shortlisted consultants (including also sub-consultants)

【Insert if applicable: Secretary, DCSC – w/first 2 pages of Fee Proposal **pProforma together with the names of all the longlisted consultants】**

Note :

Relevant requirements of the Technical Circulars and circular memoranda should also be incorporated as appropriate, e.g. pairing of consultant selection exercises (if adopted).

[Annex ___] to the Invitation Letter – Requirements of ISO 9000 Certification

- (1) The consultant shall submit, together with its technical proposal, a copy of its ISO 9001:~~2008-2015~~ 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:~~2008-2015~~ 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:~~2008-2015~~ 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:~~2008-2015~~ 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:~~2008-2015~~ 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 **【name of the department concerned】** 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:~~2008-2015~~ 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:~~2008-2015~~ certificate, ISO 9001:~~2008-2015~~ 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 ___] to the Invitation Letter - 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 being [15%]—【Insert the current rate at the time the invitation is issued.】—for unincorporated business and [16.5%]—【Insert the current rate at the time the invitation is issued.】—for incorporated business for the year of assessment of [2013/2014]—【Insert the relevant year.】—, 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. **【Attach the Sample Declaration Letter in Appendix 4.15 of EACSB Handbook. 】**

INVITATION FOR TECHNICAL AND FEE PROPOSAL

Consultancy Agreement No. _____
(Agreement Title)

List of Consultants Invited for Technical and Fee Proposal

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____
- 9 _____
- 10 _____
- 11 _____
- 12 _____
- 13 _____
- 14 _____
- 15 _____

N.B

- (a) Please check for the most updated list of consultants in each Service Category maintained by EACSB on the CEDD's website.
- (b) Please insert the full name of the consultant.

[Annex / to Invitation Letter for Technical and Fee Proposal –
Bidding Restrictions

1. Any Technical and Fee (T&F) Proposal made by a consultant not eligible for being invited to make T&F Proposal at the time of invitation will not be considered.
2. If the T&F Proposal is made by a joint venture, the bidding restrictions stipulated in Section 2.3 of the Guidelines attached to DEVB TC(W) No. 5/2018 (the Guidelines) in respect of engagement of joint venture shall be complied with. Any T&F Proposal made by a joint venture in the form being not acceptable in accordance with Section 2.3 of the Guidelines will not be considered.
3. If a joint venture is formed by listed consultants with one or more consultants who are unlisted at the time of invitation for T&F Proposal, it must ensure all the unlisted consultants concerned have been approved by EACSB for inclusion on the List of Consultant of EACSB (the List) under the appropriate Service Category on or before the date set for the close of submission of T&F Proposal, or if this has been extended, the extended date. Otherwise, the T&F Proposal submitted by the concerned joint venture will not be considered.
4. The consultant must ensure that at the time of submission of T&F Proposal, the consultant itself and its sub-consultants proposed to undertake sub-consulting service under listed Service Category maintained by EACSB or service disciplines under a list of consultants maintained and published by the Government shown in Annex _____ **【Refer to Annex E to this sample invitation letter】** to the invitation letter are eligible for bidding under the proposed service category in the relevant list. Failure to comply with this requirement will lead to disqualification of the consultant's T&F Proposal.
 - 4.1 (a) If the consultant proposes one or more sub-consultants to undertake sub-consulting service under the listed Service Category maintained by EACSB, the bidding restrictions stipulated in Section 2.3.1(b) of the Guidelines in respect of engagement of sub-consultant shall be complied with. In that case, the consultant shall choose to engage sub-consultant(s) with the listed status in Group _____ or lower under the relevant Service Category with three Groups and /or in Group _____ or lower under the relevant Service Category with two Groups maintained by EACSB for the sub-consulting service concerned. **【the procuring department shall input the appropriate Group Number(s) as determined in accordance with Section 2.3.1(b) of the Guidelines.】** If the sub-consultant proposed is unlisted at the time of invitation for T&F Proposal, the

consultant shall ensure that the unlisted sub-consultant concerned has been approved by EACSB for inclusion on the List under the appropriate Service Category on or before the date set for the close of submission of T&F Proposal, or if this has been extended, the extended date.

(b) Failure by a consultant to comply with the requirements in paragraph 4.1(a) above will lead to disqualification of the consultant's T&F Proposal.

4.2 (a) If the consultant proposes one or more sub-consultants to undertake sub-consulting service under the listed service discipline/categories maintained by Architectural and Associated Consultants Selection Board (AACSB) **【and/or (the procuring department shall add relevant lists to align with the restrictive list provided in the invitation letter) 】, the bidding restrictions stipulated in Section 2.3.1(b) of the Guidelines in respect of engagement of sub-consultant shall be complied with. In that case, the consultant shall engage sub-consultant(s) with the listed status for the relevant service discipline/category maintained by AACSB **【and/or (the procuring department shall add relevant lists to align with the restrictive list provided) 】, for the sub-consulting service concerned.****

(b) Failure by a consultant to comply with the requirement in paragraph 4.2(a) above will lead to disqualification of the consultant's T&F Proposal.

4.3 If the consultant proposes one or more sub-consultants to undertake sub-consulting service not under the listed service discipline/categories as mentioned in paragraphs 4.1 and 4.2, the consultant may engage any sub-consultant(s) even if they are not listed under the listed service discipline/categories as mentioned in paragraphs 4.1 and 4.2.

5. If a consultant who submitted the T&F Proposal has teamed up with a sub-consultant who is no longer eligible for award of the consultancy after the closing date for submission of T&F Proposal, the Assessment Panel may continue the assessment by referring the listing status as at the closing date for submission of T&F Proposal. If the consultant concerned attains the highest combined score, the consultant concerned may still be eligible for award of the agreement.

INVITATION FOR TECHNICAL AND FEE PROPOSAL

Consultancy Agreement No. _____
(Agreement Title)

Listed Service Category or Listed Service Discipline
Maintained and Published by the Government

- 1 All listed Service Categories maintained by EACSB; [Mandatory to be included]
- 2 All listed Service Categories maintained by AACSB; [Mandatory to be included]
- 3 [Procuring departments to add relevant lists which are of restrictive nature];
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____
- 9 _____

Note:

- (a) If you propose to engage one or more sub-consultants for this Assignment, you shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018.
- (b) The consultant must ensure that at the time of submission of T&F Proposal, the consultant itself and its sub-consultants proposed to undertake sub-consulting service under listed Service Category maintained by EACSB or service disciplines under a list of consultants maintained and published by the Government shown above are eligible for bidding under the proposed service category in the relevant list. Failure to comply with this requirement will lead to disqualification of the respective T&F Proposal.
- (c) If the consultant has any enquiry on whether the sub-consulting service to be undertaken by a sub-consultant is within the scope of a particular listed service category or discipline, the consultant may seek clarification from procuring departments as stated in the invitation letter.

N.B

Procuring departments shall add relevant lists above to suit the specific natures of projects where appropriate.

INVITATION FOR TECHNICAL AND FEE PROPOSAL

—
Consultancy Agreement No. _____
(Agreement Title)

List of Sub-consulting Firms for Undertaking Sub-consulting Service not under Listed Service Category Maintained by EACSB or any Service Discipline having a List of Consultants Maintained and Published by the Government

- 1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____

Note:

- (a) The list is non-restrictive and for information only. The tenderers are not obliged to engage the sub-consulting firms on the above list as sub-consultants for this Assignment.
- (b) The Government will not be responsible for any liability in respect of tenderers' engagement of sub-consulting firms on the above list.

N.B

Please insert the full name of the consultant.

Annex G

Table of Listed and Unlisted Sub-Consultants and Scope of Sub-consulting Services to be undertaken

Consultancy Agreement No. _____
(Agreement Title)

<u>Name of Sub-consultant</u>	<u>Listed Service Category or Discipline</u> <small>(Note a)</small>	<u>Corresponding List maintained and published by the Government</u> <small>(Note a)</small>	<u>Scope of Sub-consulting Services to be undertaken</u> <small>(Notes b to d)</small>
<u>e.g. Company A</u>	<u>Traffic and Transport Category</u>	<u>The Engineering and Associated Consultants Selection Board</u>	<u>Traffic study and planning</u>
	<u>Architectural Category</u>	<u>The Architectural and Associated Consultants Selection Board</u>	<u>Architectural aesthetic design</u>

Note:

- (a) If the proposed sub-consultant is unlisted, please mark “Nil”.
- (b) If you propose to engage one or more sub-consultants for this Assignment, you shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018.
- (c) The consultant must ensure that at the time of submission of T&F Proposal, the consultant itself and its sub-consultants proposed to undertake sub-consulting service under listed Service Category maintained by EACSB or service disciplines under a list of consultants maintained and published by the Government shown in Annex **【Refer to Annex E to this sample invitation letter】** to the invitation letter are eligible for bidding under the proposed service category in the relevant list. Failure to comply with this requirement will lead to disqualification of the respective T&F Proposal.
- (d) If the consultant has any enquiry on whether the sub-consulting service to be undertaken by a sub-consultant is within the scope of a particular listed service category or discipline, the consultant may seek clarification from procuring departments as stated in the invitation letter.