

SAMPLE INVITATION LETTER FOR EXPRESSION OF INTEREST

For use with e-TS(CS)
For NEC3

[insert date]

Dear Sirs,

Agreement No. CE [insert agreement no.]
[insert agreement title]

1. I am pleased to invite you to express interest in undertaking the above contract. The contract is to commence in [insert month & year].

2. The documents listed below are contained in an Electronic Invitation Package (“EIP”), which can be downloaded from the e-Tendering System (Works Consultancy Services) (“e-TS(CS)”) via this link [insert hyperlink].

- (i) This covering letter (with Annexes [A] to [M]);
- (ii) Contract Data Part one;
- (iii) Proforma for Contract Data Part two (Sections 1 and 2);
- (iv) Proforma for Activity Schedule;
- (v) Scope;
- (vi) Assessment criteria and weighting for marking the expression of interest and composition of assessment panel
- (vii) Other documents (please state).

[Note to project office: Amend the above list as appropriate.]

3. You must register an account on the e-TS(CS) before you can download the EIP from the e-TS(CS). By registering an account on the e-TS(CS) and downloading the EIP, you are deemed to have accepted the Terms and Conditions of Use and Participation and the user manual of the e-TS(CS) (available at [insert hyperlink]) and the Licence Conditions for the EIP in **Annex [A]** to this letter.

4. You **must submit** your expression of interest (“EOI”) submission **in electronic format via e-TS(CS)**. Your attention is further drawn to the following requirements on submitting the EOI submission electronically:

- (i) Except as provided in sub-paragraph (ii) below, you must submit your EOI submission via a valid account or sub-account in the e-TS(CS) under your own name;
- (ii) In the case you submit your EOI submission in the form of an unincorporated joint venture, your EOI submission must be submitted via a valid account or sub-account in the e-TS(CS) under the name of **one** participant to the joint venture. If your EOI submission is submitted via the accounts or sub-accounts of multiple participants, only the submissions made by the participant whose date and time of its first submission to the e-TS(CS) is the earliest amongst all participants will be considered. Files submitted by any other participant will be discarded without opening;

- (iii) All files in your EOI submission must comply with the “**Requirements for Submission in Electronic Format**” in Annex [B] to this letter; and
- (iv) The term “**Digitally Signed**”, in relation to a file, means that such file is Digitally Signed as more particularly required under paragraph 4 of the “**Requirements for Submission in Electronic Format**” in Annex [B] to this letter. Without prejudice to other requirements in this letter, if a file is required to be Digitally Signed pursuant to this letter, **the digital signature for that file must comply with the above mentioned requirements. Failure to comply will result in the relevant file being discarded and not be considered.**

[Note to project office: Paragraphs 4A, 4B and 4C allow bidders to submit optional hard copies. This arrangement applies to all invitations until further notice.]

4A. In addition to your electronic submission, you may opt to submit the EOI submission in hard copy as well. **Submission in hard copy is optional.** If you wish to submit hard copy in addition to the electronic submission, you must deposit one copy of your EOI submission in a sealed envelope clearly indicating the consultant’s name and project reference to *[insert post of public officer, project office and department]* at *[insert address of project office]*. For the purpose of the hard copy submission:

- (i) If a file is required to be Digitally Signed pursuant to this letter, such requirement is deemed to have been complied with if its hard copy has been duly signed by a person authorized to sign Government contracts on your behalf (or, in the case of an unincorporated joint venture, by a person authorized to sign Government contracts on each participants’ behalf); and
- (ii) If the signing of a file is required to be witnessed, such requirement is deemed to have been complied with if the witness has signed on its hard copy in the capacity of witness.

4B. The hard copy submission will not be opened or used except in the following circumstances:

- (i) a file submitted via the e-TS(CS) cannot be opened; or
- (ii) a file submitted via the e-TS(CS) is contaminated with computer virus.

In such event, the file submitted via the e-TS(CS) will be discarded and not be considered. Without prejudice to other requirements in this letter, the *Employer* **may use the hard copy of the relevant file submitted**, if available, to evaluate your EOI submission if it considers that your action of submitting a file that cannot be opened or is contaminated with computer virus is not intentional. For the avoidance of doubt, even if it is permissible under other paragraphs of this letter for the *Employer* to invite you to re-submit the relevant file after close of submission, **the Employer shall resort to the hard copy submission first.**

4C. In case the hard copy of a relevant file is used for evaluation of your EOI submission:

- (i) If the relevant file is an essential submission under paragraph [11], its hard copy must be submitted on or before the original date set for the close of submission or if this has been extended, the extended date. **Failure to do so will render your EOI submission invalidated.**
- (ii) If the relevant file is required to be Digitally Signed but does not satisfy paragraph [4A(i)]

above, without prejudice to other requirements, such document shall be discarded and not further considered.

For the avoidance of doubt, for the parts of the hard copy submission which are not used for evaluating your EOI submission, it is not necessary to check whether they have complied with any requirements stipulated, whether essential or not.

5. In case you wish to replace or supplement any file or a part of a file in your submitted EOI submission, you must do so by re-submitting the **entire** EOI submission. Your attention is drawn to the followings:

- (i) All resubmitted files must comply with the requirements set out in paragraph [4] above;
- (ii) In case there are more than one EOI submission submitted, the latest submission shall prevail and all previous submissions will not be opened or considered.

[Note to project office: Paragraphs 5A allows bidders to submit optional hard copies. This arrangement applies to all invitations until further notice.]

5A. In the event you opt to submit an optional hard copy EOI submission in addition to electronic submission and wish to replace or supplement any part of it after you have deposited it, attention in writing may be drawn to an amendment submitted, provided that the amendment shall have been deposited before the close of submission.

6. If you wish to be considered for shortlisting to the Technical and Fee Proposals Stage, you should submit your EOI submission by **12 noon on [insert day], [insert date]**. Your EOI submission must be submitted in accordance with paragraph [4] above before the close of submission. **Late submission will not be considered.**

7. The close of submission may be extended under the following circumstances:

- (i) If tropical cyclone signal No. 8 or above, or a black rainstorm warning signal is hoisted or if “extreme conditions after super typhoons” announced by the Government is in force between 9 am and 12 noon on the date set for the close of submission, the close of submission will be extended to 12 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. Saturday is not counted as a working day. The announcements on “extreme conditions after super typhoons” will be made via **press releases website** of the Information Services Department (<http://www.info.gov.hk/gia/general/today.htm>); or
- (ii) If there is any other reason which in the Government’s view shall affect the close of submission, the *Employer* will notify you the extension of the close of submission **via the e-TS(CS) and/or emails**.

8. In determining the date and time on which a file is submitted via the e-TS(CS), the submission end time generated automatically by the e-TS(CS) which specifies when the transmission of the file through the e-TS(CS) was completed, shall be final and binding. Save for the aforesaid, any text, notice or message that appears on the e-TS(CS) which displays any date, time, time zone or time remaining for any tender submission to be filed, is for reference only and shall not be relied on by the consultant.

9. Your EOI submission should contain the following information in a maximum of **four*** [*Note to project office: for less complex and technically straight-forward assignments if considered appropriate by the Assessment Panel*] / **six*** A4 pages with a minimum font size of 12 points Times New Roman or equivalent:-

- (a) your appreciation of the key requirements and constraints/risks of the contract and approach and strategy to meet the requirements of the contract;
- (b) previous relevant experience both in Hong Kong and elsewhere;
- (c) an indication of key staff likely to be employed for the contract (together with attachments showing their curriculum vitae and an organization chart of the study/project team as necessary);
- (d) an indication of the subconsultants to be employed and the services to be undertaken by each subconsultant. The term “Subconsultants” or “subconsultants” should include all individual academic institutions, specialists, advisors, experts and the like proposed to be externally engaged to Provide the Services under the contract, and all references to “Subconsultants” or “subconsultants” in this letter should be construed accordingly. For the avoidance of doubt, subject to your confirmation on the employment status, staff seconded from your associated companies (subsidiaries, parent / sister companies) not externally engaged as subconsultants shall be regarded as your own staff for the purpose of tender assessment, including the overloading checking of manpower input, for the contract; and
- (e) your comments on the draft Scope given in **Annex** [*insert reference*] of the EIP and the draft Proforma for Activity Schedule given in **Annex** [*insert reference*] of the EIP.

10. Please note that no attachments, except attachments for the curriculum vitae of the key staff likely to be employed on the consultancy (limited to 2 pages in A4 size per staff) and the organization chart of the study/project team (limited to 1 page in A3 size) as mentioned above, should be included in your submission. For exceedance of the specified number of pages of EOI submission and attachments or inclusion of attachments other than curriculum vitae and organization chart, all the exceeded pages shall be discarded prior to the assessment. Also, 1 mark shall be deducted from the overall score for non-compliance with the specified requirements on page size or font size. Documents submitted in response to paragraphs [13], [14], [22], [23], [26], [28] and undertakings as required in paragraph [27] below are not counted towards the number of pages of the EOI submission.

11. **The following requirements are essential requirements.** Failure to comply with any of these requirements on or before the date set for close of submission or, if this has been extended, the extended date **shall render your EOI submission non-conforming:-**

- (i) the EOI submission must be Digitally Signed; and
- (ii) the EOI submission must not contain any indication of prices or rates.

12. The assessment criteria and weightings for marking the EOI submission submitted by consultants and the composition of the Assessment Panel are given in **Annex** [*insert reference*] of the EIP.

13. 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).

* Delete/amend as appropriate
Project office to ensure the consistency of reference

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

15. For information, the Assessment Panel has agreed that for the contract, the past performance of subconsultants will **[or will not]* be assessed in the Technical and Fee Proposal stage.

16. Consultants in Group [*insert number*] under the Service Category of [*insert Service Category*] maintained by EACSB are invited to make EOI submission for the contract. The initial list of qualified consultants approached for the contract is given in **Annex [C]** of the EIP 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 EOI for the contract. Based on the response received, normally four*/five* [*Note to the project officer: the latter for pairing of consultant selection exercises*] suitable firms will be shortlisted for submission of Technical and Fee Proposals. [*Note to project office: inclusion of this Annex as an Annex to EIP is mandatory.*]

17. Your attention is drawn to the bidding restrictions set out in **Annex [D]** to this letter. [*Note to project office: inclusion of this Annex as an Annex to this letter.*]

[*Note to project office: The following paragraphs 18 and 19 shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines attached to DEVB TC(W) No. 5/2018 (the “Guidelines”) are applicable.*]

18. If you propose to engage subconsultants 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 [E]** to this letter, you must ensure that the subconsultants concerned have complied with bidding restrictions as set out in **Annex [D]** [*Note to project office: the same Annex as stated in Paragraph 17 above*]. **Failure to comply with this requirement will lead to invalidation of your EOI submission.”**

[*Note to project office: The following paragraph 19 can be inserted (i) when the contract comprises services outside the listed Service Categories or service disciplines and the procuring department considers that the consultants may propose in the submission to engage subconsultants for undertaking such services, and/or (ii) when the procuring departments would like the consultants to engage subconsultants with specialized knowledge, non-local 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.*]

19. For the avoidance of doubt, you are not obliged to engage only the consultants on the lists given in **Annex [E]** to this letter [*Note to project office: Inclusion of the first Annex as stated in Paragraph 18 above*] for solely undertaking the following services in the contract:

[*insert services*]

The EOI submission for the contract in respect of the subconsultants solely for the above services will be evaluated on an equal basis, whether the subconsultants are on the lists given in **Annex [*insert reference*]** to this letter [*Note to project office: inclusion of the first Annex as stated in Paragraph 18 above*] or not.

* Delete/amend as appropriate
Project office to ensure the consistency of reference

[Note to project office: The above paragraph 19 shall be replaced by paragraphs 20 and 21 below if Section 3.1.1.2(c) of the Guidelines is applicable.]

20. For the avoidance of doubt, apart from the consulting firms on the lists given in **Annex [E]** *[Note to project office: inclusion of the same Annex as stated in Paragraph 18 above]* to this letter, you can also engage unlisted non-local consultants as **subconsultants** solely for undertaking any of the following sub-consulting services in this contract:

[insert the sub-consulting services]

The EOI submission for this contract in respect of the subconsultants solely for the above services will be evaluated on an equal basis, no matter whether the subconsultants are on the lists given in **Annex [E]** *[Note to project office: inclusion of the same Annex as stated in Paragraph 18 above]* to this letter or not.

21. A consultant will be regarded as “non-local consultant” if:

- (i) the consultant is a natural person who, as at the closing date of the EOI submission, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out in paragraph [20]; or
- (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the EOI submission; or
- (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.

In the event that you propose to engage an unlisted non-local subconsultant to perform any of the sub-consulting services listed in paragraph [20], you shall submit declarations signed by each of such proposed subconsultants to declare the subconsultants’ non-local status. **Failure to submit such declarations may lead to invalidation of your EOI submission.** If you still fail to submit such declarations by the given due date after being requested to do so, your submission will be invalidated. A sample declaration letter is attached at **Annex [F]** of this letter.

22. *[Note to project office: insert this paragraph 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 [G]** to this letter *[Note to project office: inclusion of the Annex to this letter – see Section 2.3.1(b)(iii) of the Guidelines.]* for your information. You may consider teaming up with the sub-consulting firms on the list if required for this contract. 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 subconsultants for this contract. The EOI submission for this contract in respect of subconsultants will be evaluated on an equal basis, whether the subconsultants 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.

23. No consultants are permitted to submit more than one EOI submission for the same contract. For the avoidance of doubt, consultants who submit an EOI submission in their own name and an EOI submission in the name of an unincorporated joint venture/partnership (with the consultants concerned as a participant/partner) will be considered as having submitted two EOI submissions. 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 contract. Only one firm among such consultants, as the case may be, should be allowed to submit EOI for the contract. In your EOI submission, you are thus required to declare any linkage with other consultants on the list as stated in paragraph [16] of this letter. 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 EOI submission. 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 any EOI.

24. 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 EOI for the same contract. You are also required to declare any such linkage with other consultants on the list as stated in paragraph [16] of this letter, if applicable. 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 EOI submission. 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 subconsultants only for any contract.

25. Failure to observe the “no linkage” requirement stated in paragraphs [23] and [24] will **lead to invalidation of your EOI submission and the EOI submission submitted by consultants having linkages with you.**

26. [*Note to project office: include this paragraph 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 of the project 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 the contract will be equally made available to all potential consultants upon request.

[*Note to project office: The following paragraph 27 shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable.*]

27. If subconsultants are to be employed, you are required to complete the table in **Annex [J]** to this letter indicating, if any, the name of each proposed subconsultant, the scope of sub-consulting services to be undertaken by each listed and unlisted subconsultant to be employed, the relevant listed Service Category or discipline for which each subconsultant is to be employed and the corresponding list maintained and published by the Government. If your proposed subconsultant is unlisted but an application for application for inclusion on the List of Consultants of EACSB under the relevant Service Category has been made prior to the date set for close of submission of EOI, please also indicate on which the date such application is made in the table. These items of information are collectively referred to in this paragraph as “the subconsultants’ information”. **Failure to submit any item of the subconsultants’ information, which makes the compliance check with the bidding restrictions as set out in Annex [D] to this letter in the respect of engagement of subconsultants unable to be conducted will lead to invalidation of your EOI submission.** If you have any enquiry about completing the table on whether the sub-consulting service to be undertaken by a subconsultant is within the scope of a particular listed Service Category or discipline and would like to seek clarification, you must submit your enquiry via the e-TS(CS) or other means as agreed by the *Employer* before **12 noon on [insert day], [insert date]** [*Note*

* Delete/amend as appropriate
Project office to ensure the consistency of reference

to project office: the procuring department should specify the exact date here, say at least ten working days before the deadline for submission of EOI]. The enquiry shall be sufficiently specific to facilitate the preparation of clarification. Late enquiry will not be entertained. [*Note to project office: inclusion of this Annex as an Annex to this letter.*]

28. You should indicate in your staffing proposal which of the proposed staff are *key people* (the term “*key people*” in this letter (including the Annexes and enclosures thereto) shall, for the purposes of construing DEVB TC(W) Nos. 2/2016 and 5/2018 and their subsequent updates (if any) and AACSB/EACSB* Handbook as amended from time to time, bear the same meaning as “Core Personnel” and “core personnel” in those documents) and the employment status (i.e. fulltime or not) at the time of bidding of each and every *key people* to be deployed by you or your subconsultants in the contract. You should also indicate which *key people* will undertake the designations of the Project Manager, the Project Director and the [three] Team Leader(s) [*Note to project office: the procuring department shall amend it where appropriate to align with the assessment criteria*] as required in the assessment criteria. You should produce undertaking signed by all non-fulltime core personnel (of yourself or your subconsultants) to confirm their involvement in the event that you are awarded the contract.

29. [*Note to project office: for agreements that are administered by works departments and exceeding the Quotation Limit in SPR 220, this paragraph and inclusion of Annex on Requirements of ISO 9000 Certification as an Annex to this letter are mandatory.*] The requirements for ISO 9000 certification are set out at Annex [K] to this letter.

30. [*Note to project office: insert this paragraph 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 consultant 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.

31. Notwithstanding anything to the contrary in this invitation, the Government reserves the right to remove a consultant from the shortlisting exercise on the grounds that the consultant, or any of the consultants of the joint venture in the case of submission made by a joint venture, has engaged, is engaging, or is reasonably believed to have engaged or be engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security, or otherwise the removal is necessary in the interest of national security, or is necessary to protect the public interest of Hong Kong, public morals, public order or public safety.

32. Neither you nor any of your directors, employees, agents and subconsultants shall offer or give any advantage, gratuity, bonus, discount, bribe or loan of any sort to any agent or employee of the Employer in **connection** with this shortlisting exercise.

33. You are required to submit a **Digitally Signed** and witnessed undertaking on anti-collusion at Annex [M]. **Failure to comply with this paragraph may lead to invalidation of your EOI submission.** If you still fail to submit the Digitally Signed and witnessed undertaking by the given due date after being requested to do so, your submission will be invalidated.

34. Any breach of or non-compliance with paragraph [32] and/or the anti-collusion undertaking shall result in:

- (i) invalidation of your submission; or

* Delete/amend as appropriate
Project office to ensure the consistency of reference

(ii) removal from the list of shortlisted consultants if shortlisted.

35. By submitting your submission, you undertake to indemnify and keep indemnified the *Employer* against all losses, damages, costs and expenses arising out of or in relation to any breach of or non-compliance with paragraph [32] and/or the anti-collusion undertaking.

36. The rights of the *Employer* under paragraph [34] and [35] are in addition to and without prejudice to any other rights or remedies it has or may have against you.

37. Please note that documents of unsuccessful consultants will be destroyed three months after the date the contract has been awarded and signed.

38. The following Annexes are included with this letter:

Annex [A]	Licence Conditions for Electronic Invitation Package (EIP)
Annex [B]	Requirements for Submission in Electronic Format
Annex [C]	List of consultants invited for Technical and Fee Proposals
Annex [D]	Bidding Restrictions
Annex [E]	Listed Service Category or Service Discipline Having a List of Consultants Maintained and Published by the Government
Annex [F]	Sample Declaration Letter on “Non-local” Status
Annex [G]	List of sub-consulting firms for undertaking sub-consulting service not under the listed Service Category maintained by EACSB or any discipline having a list of consultants maintained and published by the Government
Annex [J]	Table of Listed and Unlisted Subconsultants and Scope of Sub-consulting Services to be undertaken
Annex [K]	Requirements of ISO 9000 Certification
Annex [M]	Sample Declaration Letter on Anti-Collusion Undertaking

39. In order to facilitate submission of tenders via e-TS(CS), the Government will set up a **help kiosk** with notebook computers and system support personnel at Room 1820, 18/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong for your use on the submission closing date (from 9 am to 12 noon). You may also make use of the help kiosk by appointment by giving one day’s advance notice to the *Employer* via telephone no. [insert number]. The Government does not warrant the availability of the help kiosk or the accuracy, timeliness, usefulness and/or completeness of the service provided by the help kiosk. For **enquiries** on the use of the e-TS(CS), please contact our helpdesk hotline at 3997 1844, which is available from 9 am to 6 pm, Monday to Friday, excluding public holidays.

40. If you require further details, please contact [insert name and post] at telephone [insert number].

41. Please acknowledge receipt of the invitation documents including this letter and the Annexes by clicking the acknowledgement check box in the e-TS(CS) notwithstanding whether you make EOI submission.

Yours faithfully,

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cc.

Secretary, EACSB - w/o encl.

Secretary, DCSC - w/o encl. [*insert if applicable*]

Note - This sample letter should be modified where necessary to suit the circumstances in accordance with the details set out in the relevant Technical Circulars or circular memoranda, e.g. the open invitation for expression of interest, pairing of consultant selection exercises, etc. If it is intended that the past performance of sub-consultants should be one of the assessment criteria in the assessment of Technical Proposals at the next stage, the longlisted and interested consultants should be so informed in this letter, and the relevant practices as set out in Section 3.5.2 of the EACSB Handbook should have been followed prior to this invitation.