

Sample Letter for Invitation of Technical and Fee Proposals
(For One-stage Consultants Selection)
[for NEC3]

Dear Sirs,

[insert agreement no. & title]

Invitation of Technical and Fee Proposals

1. I am pleased to invite you to submit Technical and Fee Proposals (“**T&F Proposals**”) for bidding for Agreement No. *[insert agreement no.]* “*[insert agreement title]*”. Please note that submissions are being invited on a non-commitment basis.

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) Memorandum of Agreement and its Schedule;
- (iii) *additional conditions of contract*;
- (iv) Schedule of Resident Site Staff Standards and Duties (if any);
- (v) Contract Data Part one;
- (vi) Proforma for Contract Data Part two (Sections 1 and 2);
- (vii) Proforma for Activity Schedule;
- (viii) Scope;
- (ix) Guidelines on Preparation of Technical Proposal;
- (x) Guidelines on Preparation of Fee Proposal;
- (xi) Proforma for Annexes A to E of Fee Proposal;
- (xii) Initial List of Consultants Approached for this contract;
- (xiii) Manning schedule template;
- (xiv) Personal information collection statement; and
- (xv) 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 T&F Proposals **in electronic format via e-TS(CS)**. Your attention is further drawn to the following requirements on submitting the T&F Proposals electronically:

- (i) Except as provided in sub-paragraph (ii) below, you must submit your T&F Proposals via a valid account or sub-account in the e-TS(CS) under your own name;

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- (ii) In the case you submit your T&F Proposals in the form of an unincorporated joint venture, your T&F Proposals 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 T&F Proposals are 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 T&F Proposals must comply with the **“Requirements for Submission in Electronic Format”** in **Annex [B]** to this letter;
- (iv) Your Technical Proposal must be uploaded under the “Upload Technical Proposal” Section of the e-TS(CS). Any part of the Technical Proposal uploaded under the “Upload Fee Proposal” Section of e-TS(CS) will **result in such part of the Technical Proposal being discarded and not be considered;**
- (v) Your Fee Proposal must be uploaded under the “Upload Fee Proposal” Section of the e-TS(CS). **Failure to upload the Fee Proposal under the “Upload Fee Proposal” Section shall render your T&F Proposals non-conforming;** and
- (vi) 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 T&F Proposals in hard copy as well. **Submission in hard copy is optional.** If you opt to submit hard copy T&F Proposals in addition to electronic submission, the submission in hard copy must comply with the conditions as stipulated in the **“Requirements for Submission of T&F Proposals in Hard Copy”** in **Annex [B1]** to this letter. 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:

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- (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 T&F Proposals 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 T&F Proposals:

- (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 T&F Proposals 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 T&F Proposals, 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 T&F Proposals, you must do so by re-submitting the **entire** Technical Proposal and / or Fee Proposal. 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 submission under the “Upload Technical Proposal” Section or the “Upload Fee Proposal” Section, the latest submission in that Section shall prevail and all previous submissions in that Section 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 T&F Proposals 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 possible appointment to undertake this contract, you should submit your T&F Proposals by **12 noon on Friday**, [*insert date*]. Your T&F Proposals must be submitted in accordance with paragraph [4] above before the close of submission. **Late submission will not be considered.**

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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. The *Employer* may at its sole discretion decide whether to notify you of any invalidation of your T&F Proposals for any reason(s) after the completion of this consultant selection exercise where appropriate.
9. 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.
10. Your submission should be concise and accurate and should comply with the conditions as stipulated in the **Guidelines on Preparation of Technical Proposal** and the **Guidelines on Preparation of Fee Proposal**. Your attention is also drawn to the “Correction Rules for Tender Errors in Fee Proposal” in the Guidelines on Preparation of Fee Proposal. Your submission should comply with the following conditions:
- (i) Each consultant must provide information in the Technical Proposal on the manpower input for this contract. You are therefore required to state your proposed total manpower input under [six] categories of staff¹, [**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 staff proposed in the Technical Proposal. **However, you should not provide any information in the Technical Proposal on prices or rates.** 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

¹ The qualification and experience requirements are attached at Contract Data Part one included in EIP. Only the qualification and experience obtained by the proposed staff on or before the date set for the close of submission shall be counted.

management of the *Consultant* upon award of this contract. **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 T&F Proposals will be invalidated.**

- (ii) In addition, you are required to give a manning schedule (with adjusted staff rates and prices) in the Fee Proposal. The manning schedule (with adjusted staff rates and prices) must be included in the Fee Proposal only and not in the Technical Proposal.
- (iii) The tendered total of the Prices in the Contract Data Part two (Section 2) shall be equal to the total of the prices for all phases in the summary breakdown of the tendered total of the Prices in the Fee Proposal. The information/data, in particular, the manpower input in the Fee Proposal, shall tally with the Technical Proposal. Any discrepancy found in tendered total of the Prices shall be corrected according to the “Correction Rules for Tender Errors in Fee Proposal” in the Guidelines on Preparation of Fee Proposal.
- (iv) The *staff rates* [calculated in accordance with / stated in]* the Contract Data Part two (Section 2) could be different from the adjusted staff rates indicated in the manning schedule at sub-paragraph (ii) of this paragraph.

11. **The following documents are essential submissions.** Failure to submit any of the following documents with your T&F Proposals on or before the date set for close of submission or, if this has been extended, the extended date **shall render your T&F Proposals non-conforming:**

- (i) Contract Data Part two (Section 2)
- (ii) Proforma of Activity Schedule

12. **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 T&F Proposals non-conforming:**

- (i) The essential submissions required in paragraphs [11](i) and (ii) above must be Digitally Signed;
- (ii) Your Fee Proposal must be uploaded under the “Upload Fee Proposal” Section of the e-TS(CS);
- (iii) The tendered total of the Prices must be stated in Contract Data Part two (Section 2);
- (iv) Only ONE [percentage adjustment factor (for Option A) / staff rate (for Option C)] shall be inserted for each staff category specified in Contract Data Part two (Section 2);
- (v) Only ONE rate shall be inserted for each collective rank of the “RSS on-cost rates” specified in Contract Data Part two (Section 2) [*Note to project office: Optional. only applicable for consultancies with construction stage*]; and
- (vi) The Technical Proposal must not contain any indication of prices or rates.

13. A central database, namely Public Works Consultants Resources Allocation Register

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(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 T&F Proposals for this contract will be input into the PWCRAR. By submission of the T&F 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 T&F Proposals and/or contained in any of your submissions to the *Employer* for other consultancies awarded to you or your subconsultants for purpose of tender assessment for this contract which is in connection with you, your subconsultants or staff employed.

14. You are required to confirm that you agree to abide by your T&F Proposals for a period of [ninety (90)] [*Project office may set a longer validity period, depending on the nature and complexity of the consultancy agreement*] days from the due date for submission of T&F Proposals and it shall remain binding upon you and may be accepted at any time before the expiration of that period.

15. Consultants in Group [*insert number*] under the Service Category of [*insert name of Service Category*] maintained by EACSB are invited to make T&F Proposals for this contract. The initial list of qualified consultants approached for this contract is given in **Annex [C]** to this letter 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 T&F Proposals for this contract. Upon completion of the assessment of Technical Proposals, Fee Proposals of those consultants that are considered technically capable of undertaking this contract will normally be opened and combined score assessment of T&F Proposals will be carried out in accordance with DEVB TC(W) No. 2/2016 and No. 5/2018 and its subsequent updates (if any). [*Note to project office: inclusion of the Annex to this letter is mandatory.*]

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

[*Note to project office: The following paragraph 17 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.*]

17. If you propose to engage subconsultants for this contract to undertake sub-consulting services under the listed Service Categories or service discipline having a list of consultants maintained and published by the Government as shown in **Annex [E]** to this letter [*Note to project office: inclusion of the Annex to this letter.*], you must ensure that the subconsultants concerned have complied with bidding restrictions as set out in **Annex [D]** to this letter [*Note to project office: the same Annex as stated in paragraph 16 above.*]. **Failure to comply with this requirement will lead to invalidation of your T&F Proposals.**

[*Note to project office:*

The following paragraph 18 shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable.

The following paragraph 18 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 –

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See Sections 2.3.1(b) and Section 2.3.4 of the Guidelines.]

18. For the avoidance of doubt, you are not obliged to engage only the consulting firms on the lists given in **Annex [E]** to this letter for solely undertaking the following services in this contract:
[insert services]

The T&F Proposals for this 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 [E]** to this letter or not.

[Note to project office: The above paragraph 18 shall be replaced by paragraphs 18A and 18B below if Section 3.1.1.2(c) of the Guidelines is applicable.]

18A. For the avoidance of doubt, apart from the consulting firms on the lists given in **Annex [E]** 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 T&F Proposals 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]** to this letter or not.

18B. 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 submission of T&F Proposals, 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 [18A]; 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 submission of T&F Proposals; 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 [18A], you shall submit declarations signed by each of such proposed subconsultants to declare the subconsultant’s non-local status. **Failure to submit such declarations may lead to invalidation of your T&F Proposals.** 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.

19. *[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 T&F Proposals for this contract in respect of subconsultants will be evaluated on an equal basis, whether the subconsultants

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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.

20. The name of the consultant awarded this contract, the combined score and technical score awarded to each bidder, together with the tendered total of the Prices, adjusted notional value for compensation events, [notional RSS on-cost charges] *[insert 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 T&F 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 B11 of the *additional conditions of contract* regarding the disclosure of amount payable to the *Consultant* awarded this contract.

21. 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 contract should be provided at the same time. Similar proof of agreement with firms, organizations or individuals who will act as your subconsultants should also be submitted. 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 this 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 the consultant’s 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 this contract.

22. 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).

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

24. No consultants are permitted to submit more than one set of T&F Proposals for the same contract. For the avoidance of doubt, consultants who submit one set of T&F Proposals in their own name and another set of T&F Proposals in the name of an unincorporated joint venture/partnership (with the consultants concerned as a participant/partner) will be considered as having submitted two sets of T&F Proposals. 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 T&F Proposals for the contract. In your Technical Proposal, you are thus required to declare any linkage with other consultants on the list as stated in paragraph [15] 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 Technical Proposal. 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 T&F Proposals.

25. 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 T&F Proposals for the same contract. You are also required to declare any such linkage with other consultants on the list as stated in paragraph [15] 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 Technical Proposal. 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.

26. Failure to observe the “no linkage” requirement stated in paragraphs [23] and [24] **will lead to invalidation of your T&F Proposals and the T&F Proposals submitted by consultants having linkages with you.**

27. You are required to submit declaration for consultant’s resident status with your submission. Please refer to **Annex [I]** to this letter for the provisions of retention of money payable to non-resident consultant for settlement of profits tax.

28. 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 subconsultant to another bidding consulting firm in this consultant selection exercise; or
- (b) to different and unconnected consulting firms proposing to engage the same subconsultant(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 subconsultant 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 subconsultant 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 subconsultant 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 subconsultant(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 subconsultant may be in common or affiliated

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with the subconsultant of another bidder.

29. 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 contract. **Failure to observe this condition will lead to invalidation of your T&F Proposals.**

30. 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 T&F Proposals in accordance with DEVB TC(W) Nos. 2/2016 and 5/2018 and their subsequent updates (if any). Your T&F Proposals will be construed as a bid for this contract and, unless under very special circumstances, there will be no fee negotiations.

31. 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.

32. 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.

33. 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 this 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) [*Project office to amend the number where appropriate to align with the Guidelines on Preparation of Technical Proposal.*] as required in the Guidelines on Preparation of Technical Proposal. You should produce undertaking signed by all non-fulltime *key people* (of yourself or your subconsultants) to confirm their involvement in the event that you are awarded this contract.

34. [The documents listed in Clause [*insert reference*] of the Scope are considered necessary for the implementation of this contract.] [*Note to project office: Include the sentence in square brackets if applicable, reference made 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 contract 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.

35. [*Note to project office: Include this paragraph 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 additional *conditions of contract* and the Scope of this contract. 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

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36. Documents of unsuccessful consulting firms will be destroyed three months after the date of execution of the Memorandum of Agreement for this contract.

[Note to project office: The following paragraph 37 shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable.]

37. If subconsultants are to be employed, you are required to complete the table attached 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 (these items of information are collectively referred to in this paragraph as “the subconsultants’ information”). **Failure to submit any item of the subconsultants’ information in the Technical Proposal, 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 T&F Proposals.** If you have any enquiry on 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 12:00 noon, *[insert day]*, *[insert date]*. *[Project office 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.

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

39. [Please note that this invitation is made before the necessary funds for this contract 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.] *[Note to project office: Include the sentence in square brackets if applicable.]* 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.

40. Please note that a consultant who has requested for novation of consultancy agreements or contracts due to winding up of business pursuant to paragraph 6(ii) of ETWB TCW No. 3/2005 will not be awarded any further consultancy agreements or contracts. Similarly, bids submitted by consultants who engage such a consultant as a subconsultant will not be considered.

41. Notwithstanding anything to the contrary in this invitation, the Government reserves the right to remove a consultant from the bidding exercise on the grounds that the consultant, or by 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.

42. You shall submit a Digitally Signed and witnessed confirmation for compliance with national security in the form set out in **Annex [L]** attached to this letter. For the avoidance of doubt, the said letter must be Digitally Signed by both you and your witness, save that your witness does not have to be a person authorised to sign Government contracts on your behalf. *[Note to project office: inclusion of the Annex to this letter is mandatory.]* **Failure to comply with this paragraph may lead to invalidation of your submission.** If you still fail to submit the Digitally

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Project office to ensure the consistency of reference

Signed and witnessed confirmation by the given due date after being requested to do so, your submission will be **invalidated**.

43. 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 consultant selection exercise.

44. 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 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.

45. Any breach of or non-compliance with paragraph [42] and/or the anti-collusion undertaking shall result in invalidation of your submission.

46. 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 [42] and/or the anti-collusion undertaking.

47. The rights of the *Employer* under paragraphs [44] and [45] are in addition to and without prejudice to any other rights or remedies it has or may have against you.

48. To resolve queries and to ensure that the eligible consultants are fully aware of the requirements of this contract, and of the requirements for the T&F Proposals, a pre-submission meeting is scheduled as follows: [*insert details of the pre-submission meeting below*]

Date:

Time:

Venue:

49. Representatives from each eligible consultants should be restricted to not more than [*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*].

50. Please note that the Scope and the Proforma for Activity Schedule will be finalized following the pre-submission meeting. I will then write to you again providing you with the finalized documents after the pre-submission meeting.

51. 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 [B1]	Requirements for Submission of T&F Proposals in Hard Copy
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

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	the Government
Annex [I]	Retention Money Payable to Non-resident Consultant for Settlement of Profits Tax
Appendix to Annex [I]	Sample Declaration Letter
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 [L]	Letter of Confirmation for Compliance with National Security
Annex [M]	Sample Declaration Letter on Anti-Collusion Undertaking

[Note to project office: Annex B1 allows bidders to submit optional hard copies. This arrangement applies to all invitations until further notice.]

52. 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.

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

54. 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 submission of proposals.

Yours faithfully,

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Encl.

c.c.

Secretary, AACSB/EACSB* – with the Contract Data Part two (Sections 1 and 2) together with the names of all the eligible consultants and their subconsultants

Secretary, DCSC – with the Contract Data Part two (Sections 1 and 2) together with the names of all the eligible consultants and their subconsultants [*Note to project office: Insert if applicable*]

[Note to project office: Relevant requirements of the DEVB TC(W) and circular memoranda should also be incorporated as appropriate.]

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