

Consultancy Study on the Demand for and Supply of Legal and Related Services

At the meeting of the Administration of Justice and Legal Services Panel on 15 January 2004, the Department of Justice was asked to provide –

“details of the planning and conducting of the socio-legal research into the supply of, and demand for, legal services in the community (including information on the successful bidder to carry out the research and the anticipated costs of the research.”

Background

2. A brief note on the background to, and purpose of, the consultancy study is set out at Appendix 1.

Planning

3. The Department of Justice has been assisted in the planning of this project by a Consultative Committee, the terms of reference and membership of which are set out in Appendix 2.

Selection of consultant

4. The process for selecting a consultant to conduct this survey has been overseen by the Central Consultants Selection Board (“CCSB”). The stages in that process were as follows.

- (1) An Invitation for Expressions of Interest was published on 20 March 2003 and the Department of Justice wrote to a total of 174 organisations inviting them to submit expressions of interest. These organisations included 136 research companies, 17 financial consultants, 10 consular offices in Hong Kong, 9 local universities and the Faculty of Law of the University of Hong Kong and the

School of Law of the City University of Hong Kong. Fourteen expressions of interest were received.

- (2) With the approval of the Consultative Committee, the Department of Justice short-listed eleven of these respondents, and the CCSB approved the short-list on 13 August 2003.
- (3) An invitation letter, together the Consultancy Brief, was sent to those on the short-list on 26 August 2003.
- (4) By the deadline for submissions on 10 October 2003, six of the short-listed organizations submitted proposals for the project.
- (5) An Assessment Panel, comprising members of the Consultative Committee, met on 15 and 20 December 2003. The Assessment Panel heard oral presentations from the six organizations and considered their written submissions.
- (6) Further negotiations are needed before a final decision is made on the organization that will undertake the study.

Anticipated costs

5. The cost of the survey is yet to be finalized, since the fee quoted in an organization's bid may be adjusted in the light of further negotiations concerning the methodology and timing of the project. However, it can be confirmed that the cost is not such as to require approval by the Finance Committee.

Conducting the survey

6. It is expected that work on the survey will begin in a matter of months, and will last about three years. During that time, the consultants will be required to report progress to the Consultative Committee at approximately quarterly intervals and as and when required by the Department of Justice.

**Legal Policy Division
Department of Justice
March 2004**

**Brief Note
on the Consultancy Study on the
Demand for and Supply of Legal and Related Services**

Background

In July 2001, at a symposium held in Hong Kong on the subject of access to justice, Professor Hazel Genn presented the findings of an important survey in England on how citizens dealt with legal disputes and the extent to which they made use of the legal system to resolve these disputes. The study (Paths to Justice: What People Do and Think About Going to Law (1999)) had found that the legal services provided in England were not meeting the needs of large numbers of its citizens. At the same symposium, the Hon Margaret Ng presented the findings of a small Hong Kong study (Paths to Justice: A preliminary study on the channels of free legal advice available in Hong Kong (2001)).

2. The growing phenomenon of unrepresented litigants, and their impact on the civil justice system in Hong Kong, was one of the issues discussed by the Chief Justice's Working Party in its publication, Civil Justice Reform - Interim Report and Consultative Document (November 2001).

3. On 7 November 2001, the Legislative Council held a motion debate on the subject of upholding the rule of law. During the course of the debate, the Hon Audrey Eu noted that an important aspect of upholding the rule of law was to provide ready access to the law and to legal redress to Hong Kong's ordinary citizens. Ms Eu moved a motion urging the Government to, amongst other things, comprehensively review the demand for legal and related services. The motion was passed and the Secretary for Justice agreed to explore how the proposal could be taken forward.

4. The Department of Justice agrees that research should be undertaken to provide accurate information on the existing legal needs in the community, and how the established legal services, including court services, are meeting those needs. This would greatly assist the Government and other stakeholders to make informed future policy decisions on the provision of legal and related services.

5. A consultative committee (the Consultative Committee) comprising representatives from the legal services sector and other professional, academic and community bodies interested in the issue of access to justice was established under the chairmanship of the Solicitor General to assist the Government in overseeing the research.

Objectives

6. The Government proposes to engage a consultant to conduct a research study in order to:-

- (a) review any pre-existing socio-legal research which has been carried out in Hong Kong in relation to the supply of and demand for legal and related services;
- (b) identify the extent of the demand for legal services in Hong Kong; to also identify any gaps in the current provision of legal services, including, but not limited to, both the kinds of substantive issues for which, as well as the geographical locations in which, legal services are unavailable or inadequate; and to also identify the causative factors and circumstances surrounding unrepresented litigants;
- (c) provide useful information to facilitate more focused investment of resources in this area, including the provision of court services, legal aid, private practitioner services and pro bono services, to better meet the real legal service needs of the community;
- (d) provide useful information on the demand for and supply of law related services, such as those provided by, for example, the police and social workers;
- (e) provide useful information on what means are currently available to citizens (including the types of general legal information and advice) to assist them to resolve their disputes without resorting to the courts or otherwise taking legal action;
- (f) provide useful information on citizens' level of awareness and knowledge of their legal rights, as this will facilitate planning and development of public education campaigns and programmes for community legal service centres; and
- (g) provide useful information to assist with the promotion of the rule of law in Hong Kong.

Scope of the consultancy

7. It is anticipated that the research study will comprise two separate surveys, one focusing on the supply of legal and related services in Hong Kong and the other on the demand for legal and related services here. The selected consultant will be required to present an analysis of the findings of each of the two surveys respectively, as well as an analysis of the combined findings from both. As part of combining these findings, it is anticipated that the selected consultant will present an analysis of the unmet legal needs in the community.

8. The main duties of the selected consultant will be as follows.

(a) Study of the supply of legal and related services

The selected consultant will carry out an analytical study of the supply of existing legal and related services available in Hong Kong. This will include:

- (i) examining the scope of legal and related services, including free legal advice services;
- (ii) examining how accessible these services are, both substantively and geographically; and
- (iii) examining their respective levels of quality.

(b) Study of the demand for legal and related services

The selected consultant will carry out an analytical study of the demand for legal and related services for individuals based in Hong Kong. This will include:

- (i) identifying the types and frequency, or prevalence, of legal or "justiciable" problems which arise;
- (ii) examining the responses of those faced with justiciable problems, including what advice-seeking behaviour they adopt when faced with legal problems, their use of legal and para-legal services, alternative dispute resolution methods, self-help strategies, and avoidance strategies;
- (iii) examining their motivation for using the courts or alternative forms of dispute resolution and the extent to which the objectives of those using these services are achieved;
- (iv) examining the obstacles to access to justice;
- (v) examining the level of knowledge within the community of legal remedies and procedures; and
- (iv) examining the experiences and perceptions of those obtaining legal and related services.

(c) Analysis of combined findings of the two studies

The selected consultant will present an analysis of the findings of each of the two surveys respectively, as well as an analysis of the combined findings from both. As part of combining these findings, it is anticipated that the selected consultant will present an analysis of the unmet legal needs in the community.

(d) Methodology

Within the context of the above studies, it is anticipated that the selected consultant would undertake research work through development of a pilot scheme, surveys, focus group discussions and, as far as possible, by conducting direct face-to-face interviews with members of the community and suppliers of legal and related services.

9. The selected consultant is required to make formal presentations on findings and recommendations to the Consultative Committee and any other committee(s) at such interval, place and time as directed by the Government Representative.

Duration of the consultancy

10. The duration of the engagement is expected to be three years from the commencement of the consultancy agreement.

**The Consultative Committee for the review of the
demand for and supply of legal and related services**

TERMS OF REFERENCE

"To assist the Department of Justice by overseeing the establishment of, and progress on, a study project to comprehensively review the demand for, and the supply of, legal and related services in the Hong Kong SAR, including, but not limited to, assisting in:

- (a) determining the initial scope of the study project;
- (b) recommending who should be awarded the contract for the study project;
- (c) receiving reports of the study project team; and
- (d) providing advice on questions concerning the scope of the project, the performance of the study project team and such other questions as may be raised by the study project team.

The committee shall be chaired by the Solicitor General or his representative and its membership shall be as follows -

- (1) one representative each of the Judiciary, the Hong Kong Council of Social Services, the Law Society, the Bar Association, the Law Faculty of the University of Hong Kong, the Law School of the City University, the Legal Aid Department and the Department of Justice;
- (2) the Hon Margaret Ng;
- (3) the Hon Audrey Eu;
- (4) Dr John Bacon-Shone."