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來函檔號 Your Ref. : CB4/PAC/R63



政府物流服務署
香港北角渣華道 333 號
北角政府合署 10 樓

GOVERNMENT LOGISTICS DEPARTMENT
10th Floor, North Point Government Offices
333 Java Road, North Point, Hong Kong

香港中區
立法會道 1 號
立法會綜合大樓
立法會政府帳目委員會秘書
朱漢儒先生

朱先生：

政府帳目委員會
審議《審計署署長第六十三號報告書》第 4 章
航空交通管制和相關服務的管理

貴秘書處於本年 3 月 30 日及 4 月 1 日關於採購航空交通管理系統一事的來信收悉，我們謹回覆以提供所需資料。

(一) 擬備招標條款第 8.4 條的記錄

根據政府的《物料供應及採購規例》(“《規例》”), 若貨品及服務採購合約的估值超過 1 億元, 部門在向外發出招標文件前, 必須先把招標文件送交律政司審核; 政府物流服務署(“物流署”)亦會從採購良好做法的角度審核招標文件。

民航處按上述《規例》的規定, 於 2009 年 5 月 13 日發出電子郵件將航空管理系統招標文件第一稿(下稱“第一稿”)送交律政司及物流署審核。第一稿中第 8.4 條最後一句為“A proposed System with no proven performance (that meet the requirements in the Specifications) will not be considered further.”(見附件一)。

據我們的資料顯示，律政司於 2009 年 6 月 12 日發出電子郵件對民航處的第一稿提出意見及修改建議，該電郵的第 5 段是有關第一稿第 8 條的意見（見附件二）。律政司在該段中要求民航處確認是否根據第一稿附錄 B 所載列的強制性規定，投標者無須擁有供應和安裝與標書建議系統相同型號的空管系統的經驗。律政司同時指出，第一稿第 8.4 條最後一句“A proposed System with no proven performance (that meet the requirements in the Specifications) will not be considered further.”有些累贅，提議民航處在考慮是否需要括號內的字眼時考慮投標者所提供的產品資料及符合招標要求的聲明，是否已能證明有關係統符合重要規格的要求；是否需要有關係統必須曾在其他地方使用才會被接納。

根據我們的記錄，民航處於 2009 年 6 月 24 日發出電郵回應律政司就第一稿所提出的意見及修改建議（見附件三）。民航處回應律政司上述有關第 8 條的意見時，同意將第一稿第 8 條中有關相同型號的字眼刪除，以便與附錄 B 所載列的強制性規定一致，並同意接納律政司就 8.4 條的建議字眼，把最後一句修訂為“A proposed System with no proven performance records will not be considered further.”。

據我們的資料顯示，物流署並沒有就第一稿第 8 條的改動提出意見或建議。

（二）有關印度機場採用 Autotrac III 情況的報導

根據我們的記錄，物流署在 2011 年 2 月批出上述空管系統合約前，並沒有收到任何資料或文件有關 Autotrac III 系統在印度各機場使用狀況的報導。

物流署在 2011 年 3 月 15 日曾回覆其中一名不中標者於 2011 年 3 月 4 日的來信（見附件四）。我們信中第 5.4 段回應該不中標者就有關 Autotrac III 在印度機場使用時出現問題的剪報的意見。物流署在徵詢民航處及律政司就有關信件的回應後，回覆該不中標者。

政府物流服務署署長

(葉敏中



代行)

附件

副本送：運輸及房屋局局長(傳真:2523 9187)
民航處處長(傳真:2910 6384)
財經事務及庫務局局長(傳真:2147 5239)
審計署署長(傳真:2583 9063)

二零一五年四月十五日



ATMS tender document (Version 1) (1 of 4 files)

Ronald WC Wong to: Sandra PY TSANG, Joe WC WONG,
cd@doj.gov.hk

13/05/09 21:57

Cc: Ronald WC Wong

From: Ronald WC Wong/CAD/HKSARG@CAD
To: Sandra PY TSANG/GLD/HKSARG@GLD, Joe WC WONG/GLD/HKSARG@GLD,
cd@doj.gov.hk
Cc: Ronald WC Wong/CAD/HKSARG@CAD

Dear Joe, Sandra and Denise

Please find attached the updated ATMS tender document (version 1)
for your appropriate action

copy all 4 zip files in 1 folder before unzip or read

call me if you have any questions, thanks much

Ron Wong
EE(13), AESD Projects Section
CAD, 3/F Dragonair House,
11 Tung Fai Rd, HKIA
TEL: (852) 2591 5051
FAX: (852) 2845 7160
rwcwong@cad.gov.hk



ATMS tender Parts I to VI and VIII GLD - (version 1).zip

* 委員會秘書附註 : 本文件只備英文本。

PART II

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File Ref. : A0000002009

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40. Documents of Unsuccessful Tenderers
41. Complaints About Tendering Process or Contract Awards
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- Appendix A – Guidance Note GN-1
- Appendix B – List of Mandatory Requirements
- Appendix C – Evaluation Criteria and Marking Scheme for Selected Essential Specifications
- Appendix D – Evaluation Criteria and Marking Scheme for Desirable Specifications

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- ~~8.3 In addition to the details required in Clause 8.1, the Tenderer shall provide documentary evidence to demonstrate its technical expertise and working experience in performing the installation, testing and commissioning of the proposed System, particularly with the local on-site work experience in a multi-contractor environment to control, monitor and manage the contractors' work and activities.~~
- 8.4 The Government may, and is hereby authorized by the Tenderer to, contact any of the users details of which are provided pursuant to Clause 8.1 or 8.3 above or otherwise request a reference and such supplementary information either from the Tenderer or from the users as is considered necessary or desirable by the Government. In the event that the reference from a user indicates the System proposed cannot meet with the requirements in the Specifications, the Tenderer shall provide explanation and new user reference to prove the performance of the proposed System. **A proposed System with no proven performance (that meet the requirements in the Specifications) will not be considered further.**
- ~~8.5 Details of experience to be provided in accordance with Clause 8 shall demonstrate that the Tenderer fulfils the mandatory requirement specified in Item 3 of Appendix B hereto. There are explanatory notes below item 3 which further elaborate on what experience will and will not be accepted for the purpose of determining whether the mandatory requirement has been fulfilled. The Tenderer is reminded to pay careful attention to the mandatory requirement and the notes when preparing and collating the details of experience to be submitted.~~

Extracts of e-mail dated 12.6.2009 from DoJ to CAD and GLD on Clause 8 of the Conditions of Tender

5. Provision of Track Records (Clause 8)

5.1 Under the mandatory requirement concerning experience in Appendix B, it appears it is not necessary for the Tenderer to have experience in "supplying and installing" air traffic management system which is the same model as the one proposed for the present tendering exercise. The requirement being that so long it has 10 years' experience in the last 15 years preceding the Tender Closing Date with "supplying and installing" of any model of ATMS, subject further to the requirements in the second sub-paragraph of the mandatory requirement, this would be sufficient. Please confirm.

~~5.2 On this basis, under clause 8 of COT, the Tenderer is required to submit two types of records:~~

~~a. one set of records which shows that it complies with the mandatory requirement concerning experience;~~

~~b. another set of records which shows that the system proposed for the present tendering exercise has been supplied and installed at other air traffic control centres.~~

5.3 The bold wording in clause 8.4 appears slightly clumsy. Please consider the question underneath the text.

***委員會秘書附註：本文件只備英文本。**

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- 35. Intellectual Property Rights License
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- 37. Supplementary Information
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- 39. Withholding Tax
- ~~39~~40. Site Survey
- ~~40~~41. Documents of Unsuccessful Tenderers
- ~~42~~43. Complaints About Tendering Process or Contract Awards
- ~~43~~44. Environmental Protection

格式化: 縮排: 左: 2.04 公分

格式化: 項目符號及編號

格式化: 項目符號及編號

格式化: 編號 + 階層: 1 + 編號樣式:
1, 2, 3, ... + 起始號碼: 33 + 對齊方
式: 左 + 對齊: 2.04 公分 + 定位點
之後: 3.31 公分 + 縮排: 3.31 公分,
定位標點: 8.5 字元, 左 + 不在
8.52 字元

格式化: 英文 (美國)

Appendices

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~~operational site; and~~

~~(k) date of de-commissioning, if applicable.~~

- 8.2 Fact verification visits to the factor(ies) and operational site(s) of each Tenderer who has passed Stage 2 evaluation in Clause 24.1 may be required so as to enable the Government to inspect the operational equipment as proposed in its tender. In this regard, Tenderers should specify in the tenders the locations of the factor(ies) and operational site(s) recommended for the visits by the Government during the evaluation exercise.
- 8.3 In addition to the details required in Clause 8.1, the Tenderer shall provide documentary evidence to demonstrate its technical expertise and working experience in performing the installation, and testing and commissioning of the proposed System, particularly with the local on-site work experience in a multi-contractor environment to control, monitor and manage the contractors' work and activities.
- 8.4 The Government may, and is hereby authorized by the Tenderer to, contact any of the users details of which are provided by the Tenderer pursuant to Clause 8.1 or 8.3 above, or The Government also reserves the right to request additional otherwise request a references and such other supplementary information either from the Tenderer or from the users as is considered necessary or desirable by the Government. In the event that the reference from a user indicates the System proposed cannot meet with the requirements in the Specifications, the Tenderer shall provide explanation and new user reference to prove the performance of the proposed System. **A proposed System with no proven performance records [which evidence that it (that meets the requirements in the Specifications)] will not be considered further.**
[Do]: Are you saying product literature and statement of compliance are not sufficient to prove that the System complies with the Specifications. But not all requirements the compliance with which can be proven by performance record. Or are you saying that the System must be used elsewhere before it can be accepted under the Contract? If yes, the words in square brackets are not necessary.]
- 8.5 ~~Details of experience to be provided in accordance with Clause 8 shall demonstrate that the Tenderer fulfils the mandatory requirement specified in Item 3 of Appendix B hereto. There are explanatory notes below item 3 which further elaborate on what experience will and will not be accepted for the purpose of determining whether the mandatory requirement has been fulfilled. The Tenderer is reminded to pay careful attention to the mandatory requirement and the notes when preparing and collating the details of experience to be submitted.~~

Extracts of e-mail dated 24.6.2009 from CAD to DoJ in response to DoJ's comments on Clause 8 of the Conditions of Tender

5. Provision of Track Records (Clause 8)

5.1 Under the mandatory requirement concerning experience in Appendix B, it appears it is not necessary for the Tenderer to have experience in "supplying and installing" air traffic management system which is the same model as the one proposed for the present tendering exercise. The requirement being that so long it has 10 years' experience in the last 15 years preceding the Tender Closing Date with "supplying and installing" of any model of ATMS, subject further to the requirements in the second sub-paragraph of the mandatory requirement, this would be sufficient. Please confirm.

[CAD: I have removed from Clause 8 the reference to "same or equivalent model/type" to be consistent with the mandatory requirement in Appendix B, and also realizing that same or equivalent model would be very difficult to qualify]

~~5.2 On this basis, under clause 8 of CoT, the Tenderer is required to submit two types of records:~~

- a. one set of records which shows that it complies with the mandatory requirement concerning experience;
- b. another set of records which shows that the system proposed for the present tendering exercise has been supplied and installed at other air traffic control centres.

[CAD: due to the change above, only 1 type of record is required to be submitted, reflected in CoT Clause 8.1 and Schedule 3A]

5.3 The bold wording in clause 8.4 appears slightly clumsy. Please consider the question underneath the text.

[CAD: your suggested wordings are accepted]

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格式化: 非醒目提示

~~(k) date of de-commissioning, if applicable.~~

- 8.2 Fact verification visits to the factor(ies) and operational site(s) of each Tenderer who has passed Stage 2 evaluation in Clause 24.1 may be required so as to enable the Government to inspect the operational equipment as proposed in its tender. In this regard, Tenderers should specify in the tenders the locations of the factor(ies) and operational site(s) recommended for the visits by the Government during the evaluation exercise.
- 8.3 In addition to the details required in Clause 8.1, the Tenderer shall provide documentary evidence to demonstrate its technical expertise and working experience in performing the installation and, testing and commissioning of the proposed System, particularly with the local on-site work experience in a multi-contractor environment to control, monitor and manage the contractors' work and activities.
- 8.4 The Government may, and is hereby authorized by the Tenderer to, contact any of the users details of which are provided by the Tenderer. The Government also reserves the right to request additional pursuant to Clause 8.1 or 8.3 above or otherwise request a references and such other supplementary information either from the Tenderer or from the users as is considered necessary or desirable by the Government. In the event that the reference from a user indicates the System proposed cannot meet with the requirements in the Specifications, the Tenderer shall provide explanation and new user reference to prove the performance of the proposed System. **A proposed System with no proven performance records (that meet the requirements in the Specifications) will not be considered further.**
- ~~8.5 Details of experience to be provided in accordance with Clause 8 shall demonstrate that the Tenderer fulfils the mandatory requirement specified in Item 3 of Appendix B hereto. There are explanatory notes below item 3 which further elaborate on what experience will and will not be accepted for the purpose of determining whether the mandatory requirement has been fulfilled. The Tenderer is reminded to pay careful attention to the mandatory requirement and the notes when preparing and collating the details of experience to be submitted.~~

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來函檔號 Your Ref. :



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北角政府合署10樓

GOVERNMENT LOGISTICS DEPARTMENT
10th Floor, North Point Government Offices
333 Java Road, North Point, Hong Kong

[REDACTED] Tenderer E

15 March 2011
BY FAX

Fax No.: [REDACTED]

Dear Sirs,

Tender Ref.: PT/0230/2009 (A1310422009)
Invitation to Tender for the Supply of Air Traffic Management System
and the Provision of Related Services for the Civil Aviation Department

~~We refer to your letter of 4 March 2011 concerning the captioned invitation to tender. Our answers to your queries are set out below.~~

~~2. Terms and expressions appearing herein have the meanings given to them in the Tender Documents issued by the Government in relation to the captioned invitation to tender.~~

~~3. **Change in proposal from** [REDACTED] **Tenderer B**~~

~~3.1 The Government of the Hong Kong Special Administrative Region ("Government") is committed to ensuring the fairness and procedural propriety of its tender exercises. All tender offers, including those for the captioned tender exercise, have to be evaluated in strict accordance with the evaluation procedures set out in the relevant Tender Documents issued by the Government as well as the requirements of the Agreement on Government Procurement of the World Trade Organization (WTO GPA) where the WTO GPA is applicable to the tender exercises.~~

~~3.2 In this case, Government handled the tenders received strictly in accordance with the Tender Documents, and the requirements of WTO GPA. Specifically, we confirm that no Tenderer was allowed to change its tender proposal in the evaluation process. We repeat that the successful Tenderer did not make any counter-proposal to the essential specifications.~~

~~4. **The requirement in clause 8.4 of the Conditions of Tender in Part II of the Tender Documents (Part II) that "A proposed System with no proven performance record will not be considered further"**~~

~~4.1 Please be explained that reference to a "proposed System" in clause 8.4 of Part~~

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~~It refers to each sub-component of the System in the context of this clause. You would note that ATMS (or System) is an umbrella term comprising many sub-system components with different functions as specified in Clause 4 of the Specifications for the Air Traffic Management System in Part VII of the Tender Documents.~~

4.2 ~~The major sub-system components of the System i.e. SDP and FDP offered by the successful Tenderer has a proven performance record as evidenced by the reference site information provided by the successful Tenderer in compliance with clause 8.2 of Part II. Please refer to paragraph 5.3 below for examples. These reference sites were requested just in case if Government considered there was a need to verify compliance with the essential specifications under Stage 3 evaluation as mentioned in clause 24 of Part II (please see sub-clauses (b) and (c) under the sub-heading of “Stage 3 – Assessment of Compliance with the Essential Specifications” in clause 24 and also clauses 8.2 and 8.4 of Part II). You would note that Government did make inspection visits to the factory sites of all tenderers which passed the Stage 2 evaluation for this purpose. On this basis, the words “proven performance record” at the end of clause 8.4 should be read and understood in this context, viz site references which can prove that the proposed sub-system which forms part of the offered System can meet the relevant essential specifications applicable to it. This intention of Government is confirmed by the second last sentence which reads “In the event that the reference from a user indicates **the System proposed cannot meet with the requirements in the Specifications**, the Tenderer shall provide explanations and a new user reference **to prove the performance of the proposed System.**” Hence the last sentence, “A proposed System with no proven performance record will not be considered further”, should be read together with the afore-mentioned preceding sentence, but not on its own.~~

4.3 ~~In addition, please be clarified that this “proven performance record” requirement is separate and independent from the mandatory requirements in items 3 and 4 of Appendix B to the Part II. The more detailed requirements on track record which must be possessed by the Tenderer (or its proposed Sub-contractor for the mandatory requirement in item 4) are all set out in Appendix B items 3 and 4. Please also be clarified that it is very clear from the wording in items 3 and 4 that there is no requirement that the air traffic management system referred to in item 3 or the fallback system referred to in item 4 must be exactly the same as the System offered by the Tenderer. Based on the same reason, it is possible that the reference sites provided by the Tenderer for the purposes of demonstrating that it fulfils the requirements in items 3 and 4 of Appendix B can be different from the reference sites mentioned in clause 8.2 of Part II.~~

4.4 ~~Indeed, it is neither the user requirement nor the intention of Government as stated in the Tender Documents that the offered System **as a whole** in exactly the same composition and technologies must have been used elsewhere. This threshold would have been too high, unrealistic and would also deprive Government the opportunity to procure newer and more advanced technologies. You would note that a fair amount of customisation must also be required to ensure an air traffic management system complies with a user’s requirements which are unique to that user. Furthermore, Government would have the right to opt for newer technologies after award of the Contract under~~

~~Clause 9 of the Conditions of Contract in Part IV of the Tender Documents. If Government insists that the offered System as a whole must have been used previously, Government would not have put in this option in Clause 9. Truly, what Government insists is that the Tenderer must have sufficient track records in the provision of air traffic management system, but not that the proposed System in exactly the same make-up must have been used elsewhere. We are satisfied that the successful Tenderer qualifies for such requirements.~~

4.5 The above is our further explanation on Government's user requirements as stated in the Tender Documents including clause 8, and items 3 and 4 of Appendix B to Part II. **Government's user requirement** as stated in the last sentence of clause 8.4 of Part II should be read and understood in the context as mentioned above.

5. **Comments on the AutoTrac III system**

5.1 The major sub-system components of AutoTrac III have been in operation world-wide. As mentioned above, the FDP sub-system that the AutoTrac III FDP is based on has been in operation in 7 Area Control Centres across Canada with the first commissioned more than 5 years ago. The SDP sub-system that the AutoTrac III SDP is founded on is operational in the USA Standard Terminal Automation Replacement System (STARS) and EnRoute Automation Modernization (ERAM) programmes. As mentioned above, these reference sites were only required for the purposes of the inspection visit to verify the proposed System's compliance with the essential specifications, which Government has a right, but not an obligation, to conduct.

5.2 As explained above, the words "performance record" should be understood in the context of record showing compliance with the essential specifications, but not the performance record for the purposes of proving compliance with the mandatory requirements specified in items 3 and 4 of Appendix B.

5.3 In any event, apart from the above reference sites, we would also draw your attention to the fact that a version of AutoTrac III system (comprising both FDP and SDP sub-systems similar to the technologies of the proposed System offered by the successful Tenderer) has been delivered and accepted by the Airports Authority of India in December 2008 and in shadow operation in 2010 at the airports in Delhi and Mumbai (viz around the ~~time when the tenders were evaluated for the captioned tendering exercise).~~

5.4 You have attached to your letter certain reports on the problems encountered by Indian airports concerning AutoTrac III. As you would appreciate, the success of a project depends on many factors. The problems reported in the Indian local news and the Internet sites of India (even if accurate) might not have been caused by intrinsic problems of Auto Trac III. At the time of tender evaluation stage, there was no official information about AutoTrac III system outage from the Airports Authority of India or any other accredited channels. As explained above, based on the factory sites inspection visit, Government is satisfied that the System proposed by the successful Tenderer complies with all the essential specifications; and inspection visit to the reference site at Delhi and Mumbai was considered unnecessary. In devising the user requirements for this

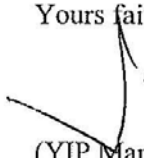
Invitation to Tender, Government took into account the risk related matters and included stringent user requirements in the system architecture design, project management, detailed design review, training, acceptance test and maintenance, safety and quality assurance and so on. You would note that these stringent user requirements were the joint efforts of our engineering and air traffic control staff.

~~6. Article XIII(4)(a) of the WTO GPA~~

6.1 The offers received in this tender exercise were evaluated in strict accordance with the evaluation procedures set out in the Tender Documents. The offer from Tenderer B [REDACTED] complies fully with all the mandatory requirements and essential specifications and achieves the highest combined score under the marking scheme in the Tender Documents. As explained in paragraphs 4 and 5 above, Government is satisfied that the proposed System complies with all the essential specifications. The award of the Contract to [REDACTED] is WTO GPA-compliant and a re-tendering exercise is considered not necessary and unfair to the successful Tenderer.

7. Thank you again for participation in this tender exercise. We understand and fully appreciate that you have put in efforts in preparing the tender. However, at the end of the day, there could only be one winning Tenderer after an evaluation based on the marking scheme set out in the Tender Documents. We genuinely hope that you find our further clarification helpful in answering your queries. In light of our explanations provided above, you may wish to reassess the necessity of pursuing your complaints further. Please let us know if you wish to have further explanation concerning Government's user requirements as stated in the Tender Documents.

Yours faithfully,


(YIP Man-chung)
for Director of Government Logistics

c.c. Director - General of Civil Aviation
(Attn.: Mr Peter YEUNG)
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