



**SECURITIES AND
FUTURES COMMISSION**
證券及期貨事務監察委員會

Invitation to Tender

Provision of IBM Servers Hardware Maintenance and Support Services from 1 April 2020 to 31 March 2021

13 February 2020

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Purpose

1. The purpose of this Invitation to Tender (“ITT”) is to seek price quotations from prospective vendors on providing hardware maintenance and support services to the IBM Servers deployed in the Securities and Futures Commission (“SFC”).

Requirement Specification

2. Please sign and return the Confidentiality Acknowledgement (Appendix A) if you wish to see detail requirement of the hardware maintenance and associated support services for the IBM equipment. The Acknowledgement should be sent to Mr. Jason CHU (email: jcschu@sfc.hk) or Mr. Yuk Wai WONG (email: ywwong@sfc.hk). Contact email and phone number of the tenderer should be included.

Confidentiality

3. All information presented in or as a result of this ITT, including information disclosed by the SFC during the selection process, is to be considered strictly confidential. Information must not be released to external parties without the express written consent of the SFC.
4. All responses and other materials submitted in response to this ITT will become the property of the SFC. The SFC assumes no obligation and shall incur no liability regarding confidentiality of all or any portion of a response or any other material submitted in response to this ITT unless expressly agreed in writing to protect specifically identified information.

Conflict of Interest

5. No Proposer may have any interest which conflicts, or has the potential to conflict, with its duties to the SFC under the proposal. If a Proposer has any interest which conflicts, or has the potential to conflict, with its duties to the SFC under the proposal, the Proposer should clearly state this in its proposal. This requirement extends to the Proposer’s associates, associated persons, group companies and each member of the Proposer’s professional staff (and their associates and associated persons).

Prevention of Bribery

6. A Proposer shall prohibit its directors, employees, agents, and sub-contractors who are involved in this ITT from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance, Cap 201 when conducting business in connection with this mandate.
7. The Proposer shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that its directors, employees, agents and sub-contractors are aware of the prohibitions in this clause.



Submission of Tender

8. If your company is interested in providing such products and services, please submit in a sealed envelope (plain envelop bearing no logo) one hardcopy of the cost quotation with the service proposal (if any), the signed CONFIDENTIALITY ACKNOWLEDGEMENT form in Appendix A and a softcopy of the cost quotation and service proposal on CD ROM. The softcopy should either be in Microsoft Word (Office 2003 or above) or Adobe Acrobat (version 6 or above) formats, before **2:30 pm, Thursday 27 February 2020** to:

Tender Box
Securities and Futures Commission
30/F Cheung Kong Center
2 Queen's Road Central
Hong Kong

9. The written proposals should be marked with the reference "**Provision of IBM Servers Hardware Maintenance and Support Services from 1 April 2020 to 31 March 2021**"
10. For the avoidance of doubt, it should be understood that the SFC will not be bound to accept any particular tender or proposal, and will be at liberty to reject all tenders or proposals.
11. The SFC shall have full discretion to decline any late submissions.

Queries Regarding This ITT

12. Any queries regarding this Invitation to Tender should be made to:

Mr. Yuk Wai WONG
Senior Manager
Information Technology, Corporate Affairs
Telephone : (852) 2231 1671
Email : ywwong@sfc.hk

Or

Mr. Jason CHU
Manager
Information Technology, Corporate Affairs
Telephone : (852) 2231 2370
Email : jcschu@sfc.hk

Appendix A – Confidentiality Acknowledgement

Acknowledgement and Undertaking

Acknowledgment in relation to the preservation of secrecy pursuant to section 378 of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) (“SFO”) and avoidance of conflict of interests pursuant to section 379 of the SFO.

Terms in this acknowledgement shall have the same meaning as defined in the SFO, unless otherwise defined herein.

Section 378 of the SFO binds you and in particular subsection (1) of that section which provides as follows:

- (1) Subject to subsection 13(A), except in the performance of a function under, or for the purpose of carrying into effect or doing anything required or authorized under, any of the relevant provisions, a specified person -
- (a) shall preserve and aid in preserving secrecy with regard to any matter coming to his knowledge by virtue of his appointment under any of the relevant provisions, or in the performance of any function under or in carrying into effect any of the relevant provisions, or in the course of assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions;
 - (b) shall not communicate any such matter to any other person; and
 - (c) shall not suffer or permit any other person to have access to any record or document which is in his possession by virtue of the appointment, or the performance of any such function under or the carrying into effect of any such provisions, or the assistance to the other person in the performance of any such function under or in carrying into effect any such provisions.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 378(1) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 378(10) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 378(10) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

Section 379 of the SFO binds you and in particular subsections (1), (2) and (3) of that section which provide as follows:

(1) Subject to subsection (2), any member of the Commission or any person performing any function under any of the relevant provisions shall not directly or indirectly effect or cause to be effected, on his own account or for the benefit of any other person, a transaction regarding any securities, structured product, futures contract, leveraged foreign exchange contract, or an interest in any securities, structured product, futures contract, leveraged foreign exchange contract or collective investment scheme -

- (a) which transaction he knows is or is connected with a transaction or a person that is the subject of any investigation or proceedings by the Commission under any of the relevant provisions or the subject of other proceedings under any provision of the SFO; or
- (b) which transaction he knows is otherwise being considered by the Commission.

(2) Subsection (1) does not apply to any transaction which a holder of securities or a structured product effects or causes to be effected by reference to any of his rights as such holder -

- (a) to exchange the securities or structured product or to convert the securities or structured product to another form of securities or structured product;
- (b) to participate in a scheme of arrangement sanctioned by the Court of First Instance under the Companies Ordinance (Cap. 622) or the relevant Ordinance;
- (c) to subscribe for other securities or another structured product or dispose of a right to subscribe for other securities or another structured product;
- (d) to charge or pledge the securities or structured product to secure the repayment of money;
- (e) to realize the securities or structured product for the purpose of repaying money secured under paragraph (d); or
- (f) to realize the securities or structured product in the course of performing a duty imposed by law.

(3) Any member of the Commission or any person performing any function under any of the relevant provisions shall forthwith inform the Commission if, in the course of performing any function under any such provisions, he is required to consider any matter relating to -

- (a) any securities, futures contract, leveraged foreign exchange contract, structured product, or an interest in any securities, futures contract, leveraged foreign exchange contract, collective investment scheme or structured product -
 - (i) in which he has an interest;
 - (ii) in which a corporation, in the shares of which he has an interest, has an interest; or
 - (iii) which -
 - (A) in the case of securities, is of or issued by the same issuer, and of the same class, as those in which he has an interest;
 - (B) in the case of a futures contract, is interests, rights or property based upon securities of or issued by the same

- issuer, and of the same class, as those in which he has an interest; or
- (C) in the case of a structured product, is interests, rights or property based on a structured product of or issued by the same issuer, and of the same class, as that in which he has an interest; or
- (b) a person -
- (i) by whom he is or was employed;
 - (ii) of whom he is or was a client;
 - (iii) who is or was his associate; or
 - (iv) whom he knows is or was a client of a person with whom he is or was employed or who is or was his associate.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 379(1) AND/OR SECTION 379(3) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 379(4) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 379(4) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

The term “specified person” is defined in section 378(15) of the SFO and means-

- (a) the Commission;
- (b) any person who is or was a member, an employee, or a consultant, agent or adviser, of the Commission; or
- (c) any person who is or was -
 - (i) a person appointed under any of the relevant provisions;
 - (ii) a person performing any function under or carrying into effect any of the relevant provisions; or
 - (iii) a person assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions.

The term “person” has the meaning attributed to it in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) which provides that “person” includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation.



I/We acknowledge that I/we have received and read carefully a copy of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571), and understand that these sections (in particular, sections 378(1) and 379(1), (2) and (3)) impose statutory obligations on me/us. I/We further confirm that I/we understand and agree to be bound by the provisions of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571).

Signature

Name / Entity name (as applicable)

Name of authorized signatory (in the case of an entity)

Title of authorized signatory (in the case of an entity)

Date

Witnessed by:

Signature

Name

Title

Date