

Request for Tender

Client Representative – Technical Specialist, Apii Nikao Rebuild

Reference No.C42/16

Tender ID# 161701

Date of Release: 13 July 2016

Cook Islands Investment Corporation

All queries regarding this Request for Tender should be directed to:

Contact Officer

anne.taoro@cookislands.gov.ck

TENDER CLOSING TIME: 3.00 pm (CI Time) Friday 29 July 2016



Glossary and Definitions

TERM	EXPLANATION
RFT	Request for Tender
Tender Team	The team that is responsible for the management of this Tender, including the evaluation and administrative functions
Tender Evaluation Committee (TEC)	The Committee that will be established specifically to evaluate this RFT.
Principal	Cook Islands Investment Corporation is the Principal to this RFT and Contract.
CIIC	Cook Islands Investment Corporation
Consultant	Client Representative – Technical Specialist
MFEM	Ministry of Finance and Economic Management
Manual	The Cook Islands Government Financial Policies and Procedures manual
NBCFCI	National Building Code for the Cook Islands

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Introduction

The Cook Islands Investment Corporation (CIIC) is inviting tenders from suitably experienced Consultants (Respondents) to fulfil the role of Client Representative-Technical Specialist for the Apii Nikao Rebuild project.

This is a one-person assignment commencing in September 2016. The assignment will end in 2018, on completion of the Apii Nikao Rebuild.

CIIC intends to identify a preferred Respondent based on the tenders received in response to this RFT. CIIC will then arrange the engagement of the preferred Respondent on a time-basis, and based on the conditions of contract in Attachment 4 of this RFT.

Respondents should note that the requirements relating to the lodgement and content of responses to this RFT as set out in sections 3 to 19 are mandatory. The CIIC will set aside any Tender that fails to comply with one or more of these requirements.

Respondents should ensure they are registered and have downloaded or received all files for this RFT including all prospective notices.

Tenders will be evaluated according to the process set out in Attachment 3 of this RFT.

Key Dates

The proposed timeframes for the RFT process are set out below:

Issue of RFT	On or before 13 th July 2016
Deadline for submission of questions from Respondents	12 pm (CI Time) Friday 22 nd July 2016
Deadline for submission of Tenders:	<u>3 pm (CI Time) Friday 29nd July 2016</u>
Contract award	By end of August 2016
Proposed Contract Commencement	September 2016

Please note that this timeframe is indicative only and may be subject to change. CIIC may extend the submission deadline at its sole discretion at any time prior to the closing date by giving written notice of the extension to registered Respondents.

Conditions of Tendering

Standard Conditions

Tender Registration

1. Prospective Respondents should register their interest to participate in this RFT process by emailing the Contact Officer who will acknowledge receipt of the registration. Only registered respondents will receive notices directly as and when they are issued. It is the responsibility of the Respondent to ensure they are properly registered for this RFT.
2. The CIIC reserves the right to extend the list of registered respondents beyond those who register interest in this RFT.

Tender Closing Time

3. Tenders must be received by the Electronic Tender Account by the following deadline, or will not be considered:

3.00pm (CI Time) Friday 29th July 2016

Submission of Tenders

4. Tenders must comprise the following documents:
 - a. A signed and completed **Form of Tender** and **Fee Schedule**, as per the templates set out in Attachment 2. Note that the contact person may be questioned during examination of the Tender, or asked to provide additional information.
 - b. Executive summary (refer to Attachment 3 - Assessment Criteria).
 - c. Curriculum Vitae for Consultant
5. Tenders must be submitted in **electronic form** and **must** be emailed to the Electronic Tender Account **as a single file in .pdf format** (or otherwise in a format compatible with Microsoft Office 2010) with the subject line:

“TENDER FOR: Client Representative-Technical Specialist, Apii Nikao”

6. Tenders must be submitted to the Electronic Tender Account by email to:

tenders@cookislands.gov.ck

The receipt time on the inbox will be used to confirm whether the Tender was submitted within the time limit.

7. Should exceptional circumstances arise and electronic submission is not possible, requests to submit hard copy Tenders are to be made five working days in advance of the deadline for submission to the Contact Officer. Approval will be granted at the CIICs discretion. An electronic copy of your Tender will still need to be received.

8. Please ensure that the total size of the required documents and your email is **under 8 megabytes (MB)**. Any email exceeding the 8MB limit may not be accepted by our mail server and will be rejected. If your email is 8MB or larger then refer to Section 11 below.
9. The Contact Officer will send a confirmation of receipt email in response to your electronic submission. If you do not receive a confirmation of receipt email within five working days from the Contact Officer your Tender has **not** been received.
10. CIIC bears no responsibility for and makes no guarantees as to the successful receipt of your Tender. In all circumstances it is your responsibility to ensure that your Tender has been received by the closing time.
11. Contact the Contact Officer in advance of the deadline for submissions to the RFT if you are unable to reduce the total file size of your application under the 8MB limit.
12. Tenders submitted by fax will **not** be accepted under any circumstances.
13. Should any page limits stated in Attachment 3 be exceeded, the additional pages may be removed from the response by CIIC. Font size should be a minimum of 11 point.
14. If the Respondent is a company, the Tender is to be signed by a duly authorised officer, for and on behalf of, the Respondent.
15. All the forms set out in Attachment 2 to this RFT must be completed by the Respondent, and submitted with the Respondent's Tender. Failure to complete all forms will make the Respondent's Tender non-compliant and may result in its rejection.
16. All Tenders shall be firm offers. In consideration for being invited to submit, and CIIC considering, the Respondent's Tender, the Respondent agrees that it's Tender may not be withdrawn for a period of 60 calendar days following the deadline for submissions to this RFT.
17. CIIC requires that all Tenders conform to these *Conditions of RFT*, and reserves the right to reject any non-conforming submission.
18. All Tenders and related documentation in respect of this RFT must be in the English language.
19. All prices quoted must be in New Zealand dollars.

Confidentiality

20. Respondents should mark their Tenders "Commercial - In Confidence" if they wish to protect specific information.
21. The RFT process and all information and communications in respect of it are confidential to CIIC, including the Tender Evaluation Committee and Cook Islands Government Tender Committee.
22. Each Respondent agrees to keep this RFT process and all information provided in connection with this RFT process strictly confidential. No such information may be used by a Respondent in any other context, nor divulged to any other party, without the prior written

consent of CIIC, although such consent is not required if the Respondent is disclosing such information to its partners, principals, directors, employees, Contractors, officers, professional advisers and related entities who are directly involved in the preparation of its Tender. Each Respondent shall take all reasonable steps to ensure that such recipients do not disclose such information to any person.

Contact Officer

23. The Contact Officer is:

Anne Taoro
Cook Islands Investment Corporation
email: anne.taoro@cookislands.gov.ck

24. Communications relating to existing business arrangements between CIIC and a Respondent will be maintained with the usual contacts. However, during this RFT process, Respondents must not solicit or discuss this RFT process or its subject matter with any person at CIIC or its agents, CIG, or any person associated with the RFT other than the Contact Officer. Any breach of these requirements may lead to the offending party being disqualified from participating in this RFT process (at the sole discretion of CIIC).

Further information or clarification

25. Questions relating to this RFT must be received in English and in writing to the Contact Officer before **12 pm (CI Time) Friday 22nd July 2016**
26. CIIC may choose to issue a Notice to Tenderers in response to questions received relating to this RFT to all Respondents. Notices shall be given in writing and shall be circulated by sequentially numbered notices to registered Respondents. Where the CIIC considers that the competitive advantage of individual Respondents may be compromised by distribution of responses to requests for information and/or clarification to all Respondents, the CIIC reserves the right to issue a response only to that Respondent. Any additional information relating to this RFT will be uploaded to www.procurement.gov.ck and www.ciiconline.com.

Assessment of Tenders

27. All tenders received in the Electronic Tender Account by the closing time will be assessed on whether they have conformed to the required standard conditions. Failure to comply with these conditions will result in immediate exclusion from the Evaluation process. All Tenders deemed compliant will proceed to the Evaluation stage.
28. Tenders will be assessed by a Tender Evaluation Committee, convened by CIIC, against the criteria outlined in Attachment 3 - Assessment Criteria and Non-Price Attributes.
29. CIIC reserves the right to clarify or request additional information from any Respondent before accepting any Tender for evaluation.
30. Investigations may be carried out to verify the capability and past performance of the Respondent. By submitting a Tender, the Respondent will be deemed to have provided any necessary authority for these investigations to be undertaken by CIIC. These investigations may include (without limitation):

- interviews with the Respondent;
- consultation with referees nominated in the Tender and others with knowledge of the Respondent; and
- searches to verify the business and financial status of the Respondent.

31. CIIC will not shortlist any Tenders.

32. Each Respondent will be notified in writing of the rejection of its Tender as soon as possible. No Tender shall be deemed to be rejected unless and until the Respondent has been notified by CIIC in writing.

33. CIIC reserves its absolute discretion in the evaluation and selection process.

34. The CIIC shall not be bound to accept the lowest priced Tender or the highest scored Tender or any Tender.

Notification of Acceptance

35. Tenders shall remain open for acceptance and shall not be withdrawn for a period of sixty (60) calendar days following the deadline for submissions to this RFT. Unsuccessful Respondents will be notified in writing by the CIIC or their representative within ten (10) working days of acceptance of the successful Tender.

36. If no Tender is accepted by the CIIC within 60 calendar days after the Closing Date, each Respondent will be notified in writing by the CIIC or their representative whether their Tender is still under consideration or is no longer being considered.

37. When the preferred Respondent has been identified, the CIIC will invite the Respondent to enter into negotiations based on the conditions of contract in Attachment 4. Only when the parties have agreed to the terms of the contract and executed the contract will the CIIC issue to the successful Respondent a Letter of Acceptance.

38. Respondents will not be entitled to see evaluation documents. CIIC may provide further information leading to the outcome of the assessment process. However, Respondents can lodge a complaint with the CIIC against the process of how the decision to award this tender was reached. Complaints may be laid in accordance with section 41-43 of the Government Purchase of Sales of Goods and Services Policy.

39. If no Tender has been accepted within the period stated, the CIIC will notify the Respondents that no Tender was accepted and may:

- a. Invite all Respondents to provide additional information;
- b. Re-advertise the RFT extending the closing date of the Tender. Respondents may either re-tender or provide additional information to support their existing Tender already received by the CIIC; and/or
- c. enter into negotiations with one or more of the Respondents for a satisfactory offer.

Subject to Contract

40. Tenders are submitted on the basis that no binding legal relations with CIIC are created unless and until a formal written contract based on the terms and conditions set out in Attachment 4 is signed by both CIIC and the successful Respondent.

Probity

41. No gifts or entertainment of any nature will be permitted between any parties involved throughout the tender process, including: Respondents or potential Respondents, Contact Officer, Tender Evaluation Committee members, the Chief Executive Officer, CIIC Board of Directors, or any other member or organisation that may have an involvement with any aspect of the tender process.

Statement of Requirements

42. The Respondent must tender to fulfil the roles and responsibilities specified in the Terms of Reference, Attachment 1 and in accordance with the conditions of contract set out in Attachment 4.

Governing Law

43. This RFT is governed by Cook Islands law, and the Cook Islands courts have exclusive jurisdiction to all matters relating to this RFT.

Contracts

44. The preferred Respondent agrees to enter into a formal written contract with CIIC and to negotiate in good faith with CIIC in relation to such contract.
45. A contract may be extended if additional work is required, at CIIC's sole discretion.

Negotiations

46. Negotiations are not permitted between the Contact Officer or any others associated with this RFT and any prospective Respondent during the tender advertising period.
47. CIIC may enter into post offer negotiations with the preferred Respondent(s) before a letter of acceptance is issued.

Rights of CIIC

48. CIIC reserves the right to:
 - a. reject all or any tender(s) and not award or accept the lowest priced of any Tenders;
 - b. reject any non-conforming Tender;
 - c. seek clarification of any Tender;
 - d. amend or extend any date in this RFT process on written notice to Respondents;
 - e. amend this RFT process or any associated documents on written notice to Respondents;
 - f. waive any irregularities or informalities in this RFT process;
 - g. suspend or cancel this RFT process on written notice to Respondents;
 - h. reissue this RFT;
 - i. take into account any other relevant information that it may have in its possession and to make enquiries of any person to assist in the assessment process;
 - j. contact, liaise and negotiate with any Respondent(s) at any time after the tender advertising period; and
 - k. reject or not consider further any documentation related to a Tender that it may receive from a Respondent.

BTIB Registration

49. In order for foreign companies to carry out business in the Cook Islands, an application for, and approval, must be sought from the Business Trade Investment Board (BTIB). Any fees associated with the registration are to be covered by the Respondent. Respondents should inform themselves of the registration process and confirm in their Tender that they are willing to register once a Letter of Acceptance is issued. Information can be found at www.btib.gov.ck.

The RFT Process

50. Each Respondent shall examine, or be deemed to have examined, the Conditions of Tendering, Assessment Criteria and Non-Price Attributes (Attachment 3), Conditions of Contract (Attachment 4), and any other information supplied by CIIC in writing.
51. In submitting a Tender to this RFT, the Respondent accepts and agrees to be bound by the Conditions of Tendering.
52. The cost of preparing and submitting the Tender shall be borne by the Respondent.
53. CIIC shall have no liability for any information it provides, or for any cost or loss to any Respondent.
54. CIIC may vary the Terms of Reference described in Attachment 1 at any time, including following the closing date, by notice in writing to the Respondents still involved in the RFT at the time the Terms of Reference is varied.

Special Conditions

Respondent Must Make Own Investigations and Enquiries

55. The Respondent must not rely solely on the information provided by CIIC or its nominated representatives. The Respondent must make all necessary investigations for it to become thoroughly informed about the works and services to be provided. It is the Respondent's responsibility to interpret and assess the relevance, accuracy and adequacy of the information provided by CIIC or its nominated representatives. It is also the Respondent's responsibility to carry out any site visits necessary.
56. The Respondent will be expected to have examined all information which is relevant to the risks, contingencies and other circumstances which could affect its Tender and which is obtainable by it by making reasonable enquiries.
57. The Respondent may request clarification or elaboration from CIIC of any of the RFT documents within the specified timeframe. All requests must be in writing to the Contact Officer.

Public Statements

58. No advertising, press release or other information relating to the acceptance or submission of any Tender shall be published in any newspaper, magazine, journal, website or other medium without the prior written consent of CIIC. Respondents, including successful Respondents, must not make any public statements to any third party in relation to any aspect of this RFT process or the awarding of any contract without the prior written permission of CIIC.

Conflict of Interest Declaration

59. A conflict of interest arises when a Respondent's integrity, objectivity or fairness in performing the services is at risk due to a personal interest or conflicting business arrangement of the Respondent, or a person or organisation associated with the Respondent.
60. Respondents must disclose in their Tender any potential or actual conflicts of interest that they may have or may be perceived to have, in respect of their responsibilities to CIIC and other parties in the course of delivering the services, should they be selected as the successful Respondent. Where potential or actual conflicts of interests are identified, the Respondent must specify how this will be managed in order to provide assurance that it will not adversely impact the performance of any services.
61. The Respondent and any person or organisation associated with the Respondent, must not directly or indirectly provide any form of inducement or reward to any employee of CIIC, or any of their respective representatives in relation to this RFT process.

Repudiation of Contract

62. If a Tender is accepted and the Respondent withdraws from the Contract or does not sign it within two (2) Working Days of the CIIC asking the Respondent to do so, the CIIC will regard the Contract as having ended.

ATTACHMENT 1 - TERMS OF REFERENCE

Client Representative – Technical Specialist, Apii Nikao Rebuild

1. Background

The Governments of the People’s Republic of China (PRC) and Cook Islands have entered into an agreement to construct the new Apii Nikao. PRC has agreed to fund the construction through grant funding. The PRC will design-build and handover the school to the Cook Islands.

A design and management company from PRC has been contracted to the PRC to complete the design documentation and supervise construction. A second company from PRC will be contracted to construct and furnish the school.

The CIIC, on behalf of the Cook Islands Government, must ensure the project is implemented successfully. This involves, but is not limited to, providing technical and management support to the PRC and its companies chosen for this project.

In 2014 the CIIC submitted detailed designs to the PRC for consideration. The PRC has accepted the designs with some changes, and will now produce further designs that align to PRC regulations. The new designs will be submitted to CIIC to review against Cook Islands regulations and engineering practises, and approve. The CIIC will secure the construction permits which includes submission of an Environmental Impact Assessment. Prior to construction, the Cook Islands will assist with the selection of key materials required for the project. These materials are yet to be confirmed.

Leading up to construction the CIIC will complete a number of activities to prepare the site for construction. This includes a new storm water drain from the school grounds to the airport drain; coordination of temporary service lines (power, water) to designated areas on site; and construction of temporary classrooms for senior students of Apii Nikao.

During construction CIIC will coordinate inspections of various elements of the building, site security, and assist the PRC design and management company.

High-level implementation timelines are reflected in the following table.

Activity	Duration	Start	End
PRC Preliminary design	3 months	June 2016	August 2016
CI review preliminary design	1 month	September 2016	September 2016
PRC Construction drawings	4 months	October 2016	January 2017
CI review construction design and obtain permits	1 month	February 2017	February 2017
PRC Contractor establishment	2 months	March 2017	April 2017
Construction	12-18 months	May 2017	April-October 2018

2. Role of the Client Representative - Technical Specialist

Through this RFT, CIIC will contract a Client Representative - Technical Specialist (Consultant) to implement and/or coordinate CIICs responsibilities for the project. The Consultant will be an individual, who will work as part of the Special Projects Unit (SPU) team.

The Consultant's role will include (but not be limited to) working with CIIC on a time basis to deliver the following tasks:

a. Preconstruction:

- Prepare a schedule of works for completing site preparation work.
- Prepare detailed design and procurement documents for relevant site works (site preparation works and civil works); manage the tender process; and provide full Engineer to Contract services.
- Coordinate utility installations prior to, during and after construction.
- Lead preliminary and construction design reviews and approvals, and coordinate input from architectural and other engineering specialist.
- Prepare Environmental Impact Assessment report and coordinate NES consents.
- Acquire regulatory building consents, and coordinate inspections and approvals.

b. During construction:

- Provide construction supervision and organisational support to the PRC companies during the construction period.
- Identify, assess and mitigate all risks affecting construction implementation.
- Develop and implement communication and quality assurance monitoring systems with the PRC design/management and construction company.
- Coordinate inspections and quality checks of regulatory authorities at the times specified.
- Coordinate connection of new buildings to main service lines (Power, Water and Communications).
- Foster and promote professional working relationships between all project stakeholders, including PRC and personnel assigned to the project, CIIC, Ministry of Education, Apii Nikao and community.
- Provide advice and direction on all technical matters relating to this project.

c. Post construction:

- Lead completion inspections and acceptance certification process.
- Support handover procedures including ensuring the necessary training of local personnel is carried out and all required documentation (as-built drawings, manuals and asset registers) is provided.

The Consultant will be responsible for ensuring the following documents are prepared:

- Design and tender documents for relevant site works (site preparation works and civil works).
- Environment Impact Assessment report.
- Applications, and associated documentation, required to obtain permits or consents from Infrastructure Cook Islands, National Environment Service, and Ministry of Health.
- Risk register.
- Asset register (including population of CIG's 'Assetfinda' asset management system).
- Monthly progress reports.
- Other project related documents that may be required.

3. Methodology

It is expected that the Consultant will be available to commence in this role in September 2016. The Consultant will continue in this role until the project is completed and handed over in 2018 (refer to the timelines in section 1).

Hours of work will be dictated by the demands of the role, thus the Consultant is expected to be flexible and available to work as and when required.

Prior to construction, the Consultant may need to commit on average 15 hour per week.

During construction and through to completion, the Consultant may be required to work 6 days per week, and commit on average 5 hours per day.

Indicative start and end times for each stage is as follows:

Stage	Start	End
a. Preconstruction	September 2016	On or before April 2017
b. During construction	On or before May 2017	On or before October 2018
c. Post construction	On or before October 2018	On or before October 2018

An assistant will be appointed from the SPU to support the work of the Consultant.

4. Governance and management

The Consultant will report directly to the Team Leader of the Special Projects Unit, Cook Islands Investment Corporation. From time to time, the Consultant will be required to present progress reports to the Cook Islands Investment Corporation Board of Directors and Apii Nikao Coordinating Committee.

The Contract, attached as Attachment 4 stipulates the conditions to which the Consultant will be contracted.

ATTACHMENT 2 - TENDER FORMS TO BE SUBMITTED

FORM OF TENDER

Client Representative – Technical Specialist, Apii Nikao Rebuild

To **Cook Islands Investment Corporation (CIIC)**

Level 1 – MFEM Building
Takuvaine Road
Avarua
Rarotonga, Cook Islands
email: anne.taoro@cookislands.gov.ck

RESPONDENT'S CONTACT DETAILS	
Respondent's full name:	
Respondent's trading name (if Company):	
Contact person (if Company):	
Postal address:	
Physical address:	
Phone number:	
Mobile:	
Email address:	
RESPONDENT'S DECLARATION <i>(If the Respondent is a Company, the declaration is to be completed by authorised contract signatory)</i>	
<p>In submitting this Tender I make the following declarations:</p> <ul style="list-style-type: none">▪ I confirm that I have read, understood and agree to be bound by the <i>Conditions of Tendering</i>.▪ I confirm that this Tender, including the Fee Schedule, will remain valid for acceptance by CIIC for 60 calendar days following the deadline for submissions to this RFT.▪ I confirm that the Consultant would be available to deliver the whole of the services as specified in the Terms of Reference, throughout the relevant contract period.▪ I confirm that in submitting this information I am not aware of any situation or issue that would conflict with the interest of CIIC. Where an actual, potential or perceived conflict of interest does arise I undertake to report it to CIIC immediately. <p>I acknowledge receipt of notices numbered to</p> <p>I understand that CIIC is not bound to accept the lowest or any Tender CIIC may receive.</p> <p>I understand that no contract shall come into existence, and no legal or other obligations shall arise in relation to the conduct, outcome or otherwise of the Tender process, prior to and apart from CIICs acceptance of this Tender.</p> <p>I understand that CIIC may contact the referees nominated by us in this offer and make whatever enquiries CIIC deems necessary regarding our financial health and ability to deliver the Contract Works. . Further, during the assessment stage I understand and agree that CIIC may request specific information from all Respondents in order to assist the assessment. I acknowledge that a failure to provide such information may result in my</p>	

disqualification from the process.

I have personally completed this Form of Tender as, or on behalf of, the Respondent and declare that the above particulars provided here and in the attached documents are true and correct. I understand that should I be successful then falsification of information, supply of misleading information or the suppression of material information will be grounds for termination of the contract.

The following attachments are provided as required to be submitted with this Tender:

- Completed Fee Schedule
- Executive Summary
- Curriculum Vitae (CV) for Consultant (including referee details)

Signed by the Respondent:

Signature

Date

Full Name

Position (if business)

In the presence of:

Signature

Date

Full Name

Title

FEE SCHEDULE

Client Representative – Technical Specialist, Apii Nikao Rebuild

Respondent must complete all relevant sections:		Rate in NZD, exclusive of VAT	VAT	Rate in NZD, Inclusive of VAT
1.	Hourly fee within normal business hours (8am to 4pm, Monday to Friday):	\$		
2.	Hourly fee for evening, weekends, and public holidays (if different from 1. above):	\$		
3.	Daily fee for international travel (include fees and allowances only):	\$		
4.	Other fees (please specify)..	\$		

ATTACHMENT 3 - ASSESSMENT CRITERIA

The Standard Conditions has been drawn from the Conditions of Tendering in this RFT. Tenders that do not meet the Standard Conditions are deemed non-compliant, and will not proceed into Evaluation.

D1 Standard Conditions

Tenders must pass all of the following requirements. Tenders that do not meet one or more of these conditions are deemed non-compliant and will not be considered.

No.	Criteria	Compliance
1	Availability to undertake role of Client Representative / Technical Specialist during the prescribed period. The Respondent should confirm this in the Executive Summary.	Pass/Fail
2	Respondents Tender comprises of: <ol style="list-style-type: none"> Form of Tender (Refer to Attachment 2); Fee schedule (Refer to Attachment 2); Executive Summary - <u>the Executive Summary must not exceed four (4) A4-size pages. Font size should be a minimum of 11 point; and</u> Curriculum Vitae (CV) for Consultant - <u>the CV must not exceed four (4) A4-size pages. Font size should be a minimum of 11 point. The CV must include a minimum of 4 referees and their contact details.</u> 	Pass/Fail
3	Tender was received by the closing time specified in the RFT	Pass/Fail
4	Tender and related documentation is in the English language	Pass/Fail
5	Tender was presented in electronic format as specified in the RFT.	Pass/Fail
6	The Respondent confirms that he/she will undertake the full role of Client Representative - Technical Specialist as described in the Terms of Reference. The Respondent should confirm this in the Executive Summary.	Pass/Fail
7	All prices quoted are in New Zealand dollars.	Pass/Fail

D2 Evaluation

Only fully compliant Tenders will be evaluated. A Tender Evaluation Committee (“TEC”) will be convened by CIIC to evaluate the Tenders. Expert advisors may be used to support and advise the TEC during the evaluation. Respondents may be required to provide additional information during this time.

The TEC will make recommendations to the Cook Islands Government Tender Committee (consisting of the Financial Secretary and the Solicitor General) for approval.

Evaluations will be conducted against the attributes outlined in the table below.

No.	Criteria	Weight
	Non-Price Attributes	
1	Compliance with contract terms The Respondent should confirm acceptance of the Conditions of Contract (Attachment 4) or justification for amendments in the Executive Summary.	10%
2	Understanding of role, responsibility and the proposed methodology, including flexible approach to the assignment. The Respondent should demonstrate their understanding of the scope of the arrangement in the Executive Summary.	20%
3	Consultants relevant personal qualifications and experience, including: <ul style="list-style-type: none"> • Planning, design and construction of school or commercial facilities. • Engineering design, reporting and advice. • Project management. • Stakeholder management. • Cook Islands experience working with international construction companies (particularly China). 	25%
4	Consultant is a Cook Islander or permanent resident of the Cook Islands.	15%
	Price Attribute	
5	Fee schedule - value for money.	30%
	Total	100%

D3 Risk Evaluation

The Tender Evaluation Committee may conduct a Risk Assessment for each Tender submitted. This may include identification of significant risks presented by a Tender; the Likelihood of the risk occurring; the consequence of that risk; and a risk mitigation strategy.

The Risk Mitigation Strategy may include the inclusion of specific clauses in the contract. A Tender considered to be High Risk may still be selected subject to the Respondent's willingness to accept the proposed contract amendments.

ATTACHMENT 4 - CONDITIONS OF CONTRACT

Schedule

Principal: HER MAJESTY THE QUEEN ACTING BY AND THROUGH THE COOK ISLANDS
INVESTMENT CORPORATION (“the CIIC”)

Signed: _____

Name: Tamarii Tutangata

Position: Chief Executive Officer

Date:

Client Representative – Technical Specialist, Apii Nikao Rebuild (“the Consultant”):

Signed: _____

Name:

Date:

Scope and Nature of the Services: The Terms of Reference is described in Annex 1.

Programme for the Services: The Programme for the Services is set out in Annex 2.The

Fees and Timing of Payments:

Fee schedule		Rate in NZD, including VAT
1.	Hourly fee within normal business hours (8am to 4pm, Monday to Friday):	\$
2.	Hourly fee for evening, weekends, and public holidays:	\$
3.	Daily fee for international travel (fees and allowances only):	\$
4.	Other fees ..	\$

- a. The CIIC agrees to pay the Consultant the fees stated in the fee schedule above for providing the Services.
- b. The Consultant may submit a claim for the hours worked once a month by providing an invoice with sufficient details to verify the claim, including but not limited to, total hours worked each day and a summary of the Services undertaken.

Key Personnel:

Insurances:

Address for Notices:	For the CIIC:	Physical Address	Level 1, MFEM Building Avarua Rarotonga
		Email address	anne.taoro@cookislands.gov.ck
	For the Consultant:	Physical Address	
		Email address	

TERMS AND CONDITIONS FOR THE ENGAGEMENT OF A CONSULTANT

Her Majesty the Queen acting by and through the Cook Islands Investment Corporation (the "CIIC") agrees to engage the Consultant and the Consultant agrees to provide the Services described in the Schedule on the following conditions:

1. **Application:** These terms and conditions supersede any contrary provisions in any previous agreements between parties, written or otherwise. No right under these terms shall be deemed to be waived except by notice in writing by each party. In the event that any one or more of the provisions contained in these conditions are declared invalid by order, decree or judgment of any Court of competent jurisdiction, these conditions are to be read as if such provision had not been inserted.
2. **Services:** The Consultant shall perform the Services as described in the attached Schedule in accordance with any requirements set out in these terms and conditions and/or in the Schedule. The time of performance of the Services is a fundamental element of these terms and conditions. The Consultant shall notify the CIIC in writing immediately when the Consultant becomes aware there may be a delay in the delivery of the Services. The CIIC is entitled to cancel these terms and conditions or change its specification (without incurring additional charges) if the Services are not supplied on the supply dates or times specified in the Schedule. Where the Consultant has the benefit of any warranties or covenants from a third party in respect of the Services, the Consultant shall disclose and assign the benefit of the warranties and/or covenants to the CIIC.
3. **Skill:** The Consultant shall use the highest reasonable standard of skill, care and quality and employ techniques, methods, procedures and materials of a high quality and standard in accordance with best professional practice in rendering the Services. The Consultant will comply with all relevant (a) Cook Islands standards and international standards (if not in conflict) (both general and industry-specific); (b) statutes; (c) regulations; (d) by-laws; (e) ordinances; and (f) Government policies, applicable in respect of the supply of the Services.
4. **Independent Judgment:** Where the Services require the Consultant to certify, decide or use discretion under a contract between the CIIC and a third party, the Consultant must act independently, and with professional skill and judgment, and according to the terms of the contract between the CIIC and the third party.
5. **Delay:** If at any time the Consultant's performance falls behind the programme set out in the Schedule then the Consultant shall notify the CIIC and, where the delays are due to matters within the control of the Consultant, shall take all practicable steps to remedy such delay.
6. **Notices:** Any notice required or permitted to be given under the terms of this engagement shall be deemed received when reduced to writing, addressed to the other party at the address shown in the Schedule to this Engagement or at such address as such party from time to time may indicate by written notice given to the other party hereto, and
 - a. if it is delivered by hand, on the date it is delivered; or
 - b. if it is sent by e-mail, at the time the e-mail enters the recipient's information system.

A Notice received after 4pm on a Business Day, or on a day that is not a Business Day, will be considered to be received on the next Business Day.

7. **Variations:** The CIIC may order variations to the Services in writing or may request the Consultant to submit proposals for variation to the Services. Where the Consultant considers a direction from the CIIC or any other circumstance is or may give rise to a variation the Consultant shall notify the CIIC as soon as practicable.
8. **Payment:** The CIIC shall pay the Consultant for the Services the fees at the times and in the manner set out in the Schedule. The prices stated in the Schedule are fixed unless there is a written agreement stipulating the price may be varied, when it may be varied and how the price is to be determined. The Consultant is not entitled to claim expenses, surcharges, margins or disbursements except if otherwise agreed in advance and in writing by the CIIC. If the CIIC disputes an invoice, or part of an invoice, the CIIC must promptly give the reasons for withholding the disputed amount and pay any undisputed amount.
9. **Ordering CIIC Materials or Services:** The Consultant must obtain written approval from CIIC before purchasing or ordering any goods or services, materials or equipment on behalf of the CIIC.
10. **CIIC decisions:** The CIIC must respond to any written request from the Consultant for a decision within a reasonable time, to avoid or minimise any delay to the provision of the Services. If the Services are to be provided in stages, then the CIIC must approve the current stage before the Consultant may proceed with the next stage. If the CIIC has any concerns with the current stage, the CIIC shall notify the Consultant of these in writing prior to giving approval for the Consultant to proceed to the next stage. The Consultant must remedy any concerns notified by the CIIC to the satisfaction of the CIIC, or agree with the CIIC a plan for remedying any such concerns, before proceeding to the next stage of the Services.
11. **Access and security:** The Consultant will comply with the CIIC's reasonable security and access requirements.
12. **Liability:** Where the Consultant breaches these terms and conditions, the Consultant is liable to the CIIC for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. The Consultant shall not be entitled to anticipatory profits or to special (including multiple or punitive), incidental or consequential damages or losses.
13. **Contribution to Loss:** If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.
14. **Indemnity:** The Consultant indemnifies the CIIC in respect of all costs (including legal costs), claims, liabilities, losses, damage and expenses suffered or incurred by the CIIC and any other person claiming through the CIIC as a direct or indirect consequence of any unlawful, negligent, tortious, criminal, reckless or dishonest errors, acts or omission of the Consultant in the performance of its obligations under these terms and conditions. This indemnity survives the termination of these terms and conditions.
15. **Insurance:** The Consultant shall take out and maintain at its own cost, at all times during the continuance of these terms and conditions, such insurances as specified in the Schedule. All

such insurance shall be on such terms and with such insurers as the CIIC may reasonably require. The Consultant shall, if requested by the CIIC, provide the CIIC with written evidence that all insurances are in force and shall produce, whenever reasonably required by the CIIC, the relevant policies and evidence of payment of the current premiums. If the Consultant fails to provide such evidence the CIIC may, after notifying the Consultant in writing, arrange or keep in force that insurance and may, for the purpose of doing so, pay the relevant premiums and deduct a corresponding amount from any moneys payable by CIIC to the Consultant under these terms and conditions.

16. **Intellectual Property:** “Intellectual Property” includes copyright, designs, drawings, specifications, reports, data and documentation. All Intellectual Property arising from the provision of the Services (“New IP”) is owned by the CIIC and the Consultant shall co-operate with the CIIC (including by signing documents) to help the CIIC protect its rights in the New IP. To the extent that New IP incorporates or requires Intellectual Property arising outside of the provision of the Services (“Pre-existing IP”), the Consultant licences, or shall procure the licence to the Pre-existing IP for the CIIC on a perpetual, royalty-free basis. The Consultant warrants and represents to the CIIC that the New IP and the Pre-existing IP will not infringe the Intellectual Property rights of any third party.
17. **Resolving Disputes:** If a dispute arises relating to this Agreement both parties must first in good faith try to resolve the dispute and either party may give notice requiring that the dispute be referred to mediation. If mediation is not commenced or settlement is not achieved within 30 Working Days of the notice requiring mediation, the Consultant and the Client must refer the dispute to arbitration under the Arbitration Act 2014 or any Act passed in its place. If the Consultant and the CIIC cannot agree on an arbitrator within the 15 Working Day period of the notice referring the dispute to arbitration, either party may request the president of the Cook Islands Law Society to appoint an arbitrator. The award of the arbitrator is final and binding on the Consultant and the CIIC.
18. **Return of Property/Equipment:** At the end of the Services, the Consultant must return to the CIIC any property, including the CIIC’s Intellectual Property, or equipment of the CIIC which is in the Consultant’s possession or control. Despite any other provision in this Agreement the Consultant shall be entitled to retain a copy of all documentation including Confidential Information, drawings, specifications, reports, correspondence, computer files and records of every description for its record keeping purposes only. Such documentation shall include all relevant New, Pre-existing and CIIC’s Intellectual Property. The Consultant shall treat all such documentation as Confidential Information and shall mark it confidential.
19. **Termination:** The CIIC may, at its convenience, terminate all or part of the Services by 10 days’ written notice to the Consultant who shall immediately make arrangements to stop the Services and minimise further expenditure. The Consultant may, in the event the CIIC is in material default, terminate these terms and conditions by 10 days’ written notice to the CIIC. Any suspension or termination shall not prejudice or affect the accrued rights or claims and liabilities of the parties. Further, the CIIC may terminate these terms and conditions immediately where, in the opinion of the CIIC, there has been serious misconduct by the Consultant. Serious misconduct includes, but is not limited to: bringing the CIIC into disrepute, where the Consultant,

in the judgment of the CIIC, has engaged in corrupt or fraudulent practices in competing for or executing these terms and conditions, theft of property, offensive behaviour towards CIIC personnel, members of the public or contractors.

20. **Confidentiality:** The Consultant must keep confidential all information provided by the CIIC in relation to these terms and conditions and the provisions of the Services and not disclose the same without the written consent of the CIIC.
21. **Public Statements:** The Consultant must not make any public statements about the Services or these terms and conditions without the CIIC's written approval.
22. **General Warranties:** The Consultant represents, warrants and undertakes that:
 - a. it has full power, capacity and authority to execute, deliver and perform its obligations under these terms and conditions;
 - b. it has and will continue to have, all necessary consents, permissions, licences and rights to enter into and perform its obligations under these terms and conditions;
 - c. there are no existing agreements, undertakings or arrangements which prevent it from entering into these terms and conditions or which would impede the performance of its obligations under these terms and conditions;
 - d. it has not offered any inducement in connection with the entering into or negotiation of these terms and conditions; and
 - e. it has not (nor is any of its representative directors or employees) a party to any litigation, proceedings or disputes which could adversely affect its ability to perform its obligations under these terms and conditions.
23. **Conflict:** The Consultant confirms it has no knowledge of any conflict of interest in providing the Services. If any conflict arises or has the potential to arise during the supply of the Services, the Consultant shall immediately inform the CIIC in writing and the CIIC will decide on the appropriate steps to be followed in such event, which may include the right of the CIIC to terminate these terms and conditions with immediate effect.
24. **Key Personnel:** The Key Personnel for the provision of the Services are as listed in the Schedule. Any change to the Key Personnel requires the written consent of the CIIC.
25. **Assignment:** The Consultant must not assign, transfer or subcontract all or part of its rights or obligations under these terms and conditions without the prior written consent of the CIIC's, such consent to be provided at the CIIC's absolute discretion.
26. **Law:** These terms and conditions are governed by the laws of the Cook Islands. The parties agree to submit to the exclusive jurisdiction of the High Court of the Cook Islands.

ANNEX 1 TERMS OF REFERENCE

[INSERT TOR]

ANNEX 2 PROGRAMME FOR THE SERVICES

The Consultant will allow on average 15 hours per week prior to construction commencement.

During construction and through to completion, the Consultant may be required to work 6 days per week, and commit on average 5 hours per day.

The indicative start and end times for each stage is as follows:

Stage	Start	End
a. Preconstruction	September 2016	On or before April 2017
b. During construction	On or before May 2017	On or before October 2018
c. Post construction	On or before October 2018	On or before October 2018