

Baptist Oi Kwan Social Service
Tender Document of Development Service of
Visiting Medical Practitioner Service (VMPS) Operation Management System

1 Introduction

- 1.1 Baptist Oi Kwan Social Service (“BOKSS”) become one of the non-profit organizations (“NGO”) in Hong Kong.
- 1.2 The BOKSS wishes to appoint a service provider for the Visiting Medical Practitioner Service (VMPS) Operation Management-System. (“Project”)

2 Scope of Service

- 2.1 The service shall consist of the system development, installation, nursing, bug fix, maintenance, testing, documentation, migration, training and other necessary services. (For more details, please refer to Appendix 1)
- 2.2 The Project shall run from the date a Service Provider is appointed until three months after the VMPS Operation Management System goes live (“Project Period”).

3 Submission of Proposal

- 3.1 Service Providers are required to submit a proposal with technical and fee information sealed in envelope. (For more details, please refer to Appendix 2-Schedule 5 and 6.)
- 3.2 The **Technical Part** shall include the following information:
 - (a) A Project Plan listing the key activities, milestones & deliverables ;
 - (b) The name, telephone number and email address of the contact person, as well as names of staff who will be responsible for this Project and form the service team, together with the curriculum vitae of the service team;
 - (c) An account of the relevant experience, track record and documentary evidence in providing similar service to organizations of similar size to the BOKSS or in the NGO sector in Hong Kong in the past five years;
 - (d) Declaration of any involvement or interest that may give rise to actual, potential or perceived conflict with the Service to be provided;
 - (e) Non-Collusive Quotation Certificate;
 - (f) Any other information Service Provider considers relevant to the Service.
- 3.3 The **Fee Part** should quote the price for each item stated in Hong Kong Dollars to be charged to the BOKSS. The fees to be quoted should not appear in any part of the Technical Part. Service Providers should make certain the fees quoted are accurate before submitting their proposals. Under no circumstances will the BOKSS accept any request for fee adjustment on the grounds that a mistake has been made in the fee quoted.

- 3.4 The submitted Proposals will be kept by the BOKSS for its records irrespective of whether the Service Provider is selected for appointment. No Proposal will be returned to the Service Providers under any circumstances.
- 3.5 If a proposal does not conform to the required specifications in this Document, the Service Provider should provide full details of its alternative offers. The BOKSS reserves the right to accept or reject such offers.
- 3.6 The BOKSS may reject a Proposal which is so low in price that it may, in the BOKSS's opinion, adversely affect the Service Provider's ability to fulfill all requirements in the Specification Requirement.
- 3.7 The BOKSS reserves the right to disqualify any Service Provider who submits a Proposal that directly or indirectly attempts to preclude or limit the effect of the requirements as mentioned in the Product Specification and the Service Specification.
- 3.8 The BOKSS reserves the right to suspend, not to proceed or cancel this request for proposal at any time without prior notice. Without prejudice to the BOKSS's right to cancel the request for proposal, where there are changes of requirement after the Proposal Closing Time for operational or any other reasons, the BOKSS is not bound to accept any conforming Proposals. The BOKSS is at its liberty to decline acceptance of any Service Provider and the BOKSS will not be responsible for any costs originating out of or incidental to the preparation and submission of any Proposals.

4 Assessment of Proposals

- 4.1 The BOKSS will set up an assessment panel ("Panel") to evaluate the Proposals. Nonetheless, the submitted Proposals may be viewed by people other than members of the Panel during the assessment process.
- 4.2 Service Providers submitting a Proposal may be requested to make clarifications on any information provided in the Technical and Financial Proposals.
- 4.3 The BOKSS is under no obligation to discuss the Proposal assessment result with any Service Provider.

5 Declaration of Interest

- 5.1 During the Project Period, the appointed Service Provider and any of its associated companies or personnel must declare any interest that may be considered to be in any potential, actual or perceived conflict with the Service to be performed. The appointed Service Provider shall not undertake any services which could give rise to conflict of interest.

6 Confidentiality

- 6.1 Service Providers shall not disclose any information in connection with this invitation for

proposal to any third parties, other than where necessary for the purposes of Proposal preparation or statutory compliance with this invitation for proposal, without the prior written approval of the BOKSS.

- 6.2 All materials and data furnished by or on behalf of the BOKSS in connection with the Project, all information derived from the provision of the Service, and the terms and conditions as set out in this Document shall be treated by the Service Provider as confidential information.
- 6.3 The appointed Service Provider shall not disclose any confidential information to any third parties (including without limitation to any associates or associated persons, directors, officers, employees or agents of the Service Provider who are not responsible for the Project, except to the legal and compliance personnel only on a need-to-know basis) in any circumstances and whether during or after the Project Period without prior written consent from the BOKSS. The appointed Service Provider shall ensure that any persons it engages for the provision of the Service comply with this clause.
- 6.4 The appointed Service Provider shall not advertise or cause to be advertised in whatever manner before, during or after the Project Period its engagement by the BOKSS without prior written consent from the BOKSS.
- 6.5 The appointed Service Provider shall report any actual or suspected breach of confidence to the BOKSS immediately, and shall fully and effectively indemnify the BOKSS all losses, liabilities, claims, actions, proceedings, demands, costs, charges or expenses arising out of or in connection with such breach of confidence.

7 Property Right and Copyright

- 7.1 Any documents and deliverables produced in the course of providing the Service by the appointed Service Provider (“Materials”) and the copyright and all intellectual property rights in all such documents and deliverables shall be and shall remain the exclusive property of the BOKSS and shall vest in the BOKSS at the time they are created.
- 7.2 In the event and to the extent that any of the Intellectual Property Rights in the Materials is deemed for any reason not to vest in the BOKSS pursuant to clause 7.1 then the appointed Service Provider shall forthwith, free of charge to the appointed Service Provider, assign or otherwise transfer or cause to be assigned or otherwise transferred the same to the BOKSS free of any encumbrance or compensation to the appointed Service Provider.
- 7.3 The appointed Service Provider grants and undertakes to acquire at its sole costs and expense all the requisite consents and licenses for the benefit of the BOKSS, its authorized users, assigns and successors-in-title for the use (including doing any acts restricted by copyright that are stipulated in sections 22 to 29 of the Copyright Ordinance (Cap. 528)) of the Licensed Property incorporated in the Materials for any purposes for which the BOKSS may in its absolute discretion use the Materials. The license to be granted and/or acquired by the appointed Service Provider is irrevocable, non-exclusive, worldwide, royalty-free, perpetual and sub-licensable.

- 7.4 Upon request by the BOKSS at any time during the currency of this Project, and in the event of the expiration or termination of this Project, the appointed Service Provider shall at its sole costs and expense promptly deliver to the BOKSS all the Materials and all copies of the Materials (save for the deliverables already submitted), then in the appointed Service Provider's custody, control or possession, whether in their completed form or not.
- 7.5 The appointed Service Provider hereby waives and undertakes to procure all the authors concerned to waive all moral rights (as referred to in the Copyright Ordinance, Cap. 528) (whether past present or future) in the Materials (including the Licensed Property), such waiver to operate in favor of the BOKSS, its authorized users, assigns and successors-in-title and to have effect upon the vesting of the Intellectual Property Rights in the BOKSS or the grant of the license over the Licensed Property to the BOKSS (as the case may be).
- 7.6 The appointed Service Provider warrants to the BOKSS that:
- 7.6.1 the provision of the Materials or any of the services by the appointed Service Provider in performing this Project, the use or possession by the BOKSS, its authorized users, assigns and successors-in-title of the Materials or any part thereof for any of the purposes contemplated by this Project does not and will not infringe any Intellectual Property Rights of any party;
- 7.6.2 in respect of any materials used by the appointed Service Provider or the appointed Service Provider's team members in the performance of this Project and in respect of which any Intellectual Property Rights are vested in a third party, the appointed Service Provider shall have obtained the grant of all necessary clearances for itself and its team members and for the BOKSS, its authorized users, assigns and successors-in-title authorizing the use of such materials for any of the purposes contemplated by this Project.
- 7.6.3 At the request of the BOKSS, the appointed Service Provider shall, free of charge to the BOKSS, do all such things and sign all such documents and instruments as may be reasonably necessary in the opinion of the BOKSS to enable the BOKSS to obtain, defend and enforce its rights in the Materials.
- 7.7 The BOKSS is not bound to consider an offer from a Service Provider in the event of a claim being received by the BOKSS alleging or the BOKSS having grounds to believe that the Services to be supplied by that Service Provider are infringing copyrights or have otherwise infringed the intellectual property rights in the goods or product of a third party.
- 7.8 The provisions of Clauses 7.2 to 7.7 shall survive the expiration or early termination of this Project and shall continue in full force and effect notwithstanding such expiration or termination.

8 Disclosure by the BOKSS

- 8.1 The BOKSS shall have the right to disclose to any person, whenever it considers appropriate, including upon request (written or otherwise) by any third party, and in such form and matter as

it considers fit:

- 8.1.1 the fees, costs and expenses payable by the BOKSS for engaging the appointed Service Provider;
 - 8.1.2 the Proposal submitted by the appointed Service Provider; and
 - 8.1.3 the engagement by the BOKSS of the Service Provider under this Project; the names of the sub-contractors appointed by the Service Provider; and description of the Service.
- 8.2 The appointed Service Provider waives and foregoes its rights, if any, to make any claims against the BOKSS for any losses, damages, costs, charges, liabilities, demands, proceedings and actions that may arise out of or in connection with any disclosure made by the BOKSS under Clause 8.1.

9 Personal Data Provided

- 9.1 All personal data as defined in the Personal Data (Privacy) Ordinance (Cap 486) provided in a Proposal will be used for proposal evaluation and contract award purposes. If insufficient and/or inaccurate information is provided, the BOKSS reserves the right to not considering the Proposals concerned.
- 9.2 By submitting a Proposal, a Service Provider is regarded to have agreed to, and have obtained from each individual whose personal data is provided in the Proposal, his/her consent for the disclosure, use and further disclosure by the BOKSS of the personal data for the purposes related to the Project.
- 9.3 Service Providers have the right of access and correction with respect to the personal data stipulated in and in accordance with Sections 18 and 22 as well as Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance (Cap. 486). The right of access includes the right to obtain a copy of the personal data provided by the Service Providers in the Proposals.
- 9.4 Enquiries concerning the personal data collected by means of the Proposals, including in relation to the obtaining of access and correction, shall be addressed to the BOKSS's contact person as set out in Clause 21.

10 Basis of Acceptance

- 10.1 The BOKSS reserves the right to accept none or any of the Proposals received in response to this request for proposal. The BOKSS does not bind itself to accept the Proposal with the lowest fee or highest overall mark in its assessment of the Proposals.
- 10.2 The Service to be provided by the appointed Service Provider will be subject to consideration by the BOKSS. The appointed Service Provider must amend its plan, design and/or deliverables according to the requests of the BOKSS.

11 Proposal Negotiation and Acceptance

- 11.1 The BOKSS reserves the right to negotiate with any or all Service Providers about the terms and conditions of the Proposal.
- 11.2 The appointed Service Provider shall receive an indication of acceptance in writing (“Letter of Acceptance”) from the BOKSS. The Letter of Acceptance together with this Document and the Technical Proposal and Fee Proposal (if any) submitted by the appointed Service Provider shall constitute a binding contract (“Contract”). Service Providers who do not receive any notification within the Agreed Validity Period shall assume that their Proposals are not accepted.
- 11.3 In the event that there is any conflict, contradiction or ambiguity between any documents which form part of the Contract, the following order of precedence shall be applied:
- 11.3.1 The Letter of Acceptance;
 - 11.3.2 Terms and conditions set out in this Document;
 - 11.3.3 Technical and Fee Proposals and other documents submitted by the appointed Service Provider as to form part of the Proposal.
- 11.4 The Contract shall commence on the date of the BOKSS’s Letter of Acceptance or such other date as may be specified by the BOKSS (“Contract Commencement Date”).
- 11.5 The BOKSS reserves the right to amend this Document or withdraw the invitation before the acceptance of a Proposal.

12 Warranties and Undertakings

- 12.1 The appointed Service Provider warrants and undertakes to the BOKSS that the Service shall be performed and completed in an impartial, timely and diligent manner and that the appointed Service Provider shall use all the experience, skills, care and diligence in its performance of the Service and discharge of all duties and obligations under the Contract in accordance with current industry standards.

13 Indemnity

- 13.1 Without prejudice to any other provision of the Contract, the appointed Service Provider shall indemnify the BOKSS in respect of:
- 13.1.1 all claims, actions, investigations, liabilities, demands, proceedings or judgements brought against the BOKSS;

- 13.1.2 all liabilities, losses, damages, costs, charges or expenses which the BOKSS may pay or incur in disputing any such claims; and
- 13.1.3 any expense, liability, loss, claim or proceedings in respect of any injury or damage whatsoever to any property
- 13.1.4 arising out of or in connection with:
- 13.1.5 a breach of any provisions of this Contract by the Service Provider;
- 13.1.6 negligence, recklessness or willful misconduct of the Service Provider, its employees, agents or sub-contractors in the provision of the Service; and
- 13.1.7 any unauthorized act or omission of the Service Provider, its employees, agents or sub-contractors.

13.2 For the purposes of this clause, “negligence” shall have the same meaning as that assigned to it in Section 2(1) of the Control of Exemption Clauses Ordinance (Cap. 71).

14 Set Off

14.1 Where the Service Provider has incurred any liability to the BOKSS, whether at law or in equity and whether such liability is liquidated or unliquidated, and without prejudice to any rights or remedies the BOKSS may have, the BOKSS may set off, whether at law or in equity, the amount of such liability against any sum then due or which at any time thereafter may become due from the BOKSS to the Service Provider under this Contract or any other contracts.

15 Termination of Project

15.1 The BOKSS may by written notice to the Service Provider immediately terminate this contract if:

- 15.1.1 the Service Provider shall be in breach of any term or condition of this Contract and in the case of a breach capable of remedy, the Service Provider has not remedied the breach to the satisfaction of the BOKSS within fourteen (14) days of receipt of notice to remedy from the BOKSS; or
- 15.1.2 any Service Provider team member is incapacitated or otherwise unable to provide the services and a substitute or replacement to the BOKSS’s satisfaction is not found;
- 15.1.3 the Service Provider shall go into liquidation either compulsorily or voluntarily (save for the purpose of reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets or if the Service Provider makes an assignment for the benefit of or composition with his creditors generally

or threatens to do any of these things or any judgment is made against the Service Provider or a similar occurrence under any jurisdiction affects the Service Provider;
or

15.1.4 the Service Provider fails to complete the Project within thirty (30) days after the scheduled delivery date.

15.2 In the event of early termination of this Contract under clause 15.1,

15.2.1 no compensation whatsoever shall be payable by the BOKSS to the Service Provider;

15.2.2 the BOKSS shall not be responsible for any loss or expenses, including any consequential loss/damage or loss of opportunity, suffered or incurred by the Service Provider due to early termination; and

15.2.3 the BOKSS shall have the right to assign the remaining services to be completed under the Contract to another service provider or service providers, whereupon the Service Provider shall be liable for any sums so incurred in excess of the Project fee.

15.3 Notwithstanding clause 15.1 above, the BOKSS may in its absolute discretion and without cause terminate the Contract at any time by giving the Service Provider one (1) month's written notice. The Service Provider shall have no claim whatsoever against the BOKSS upon termination.

15.4 On expiry or termination of the Project and the Contract, all rights and obligations of the BOKSS and the appointed Service Provider under the Contract shall automatically terminate except for such rights of actions as shall have accrued prior thereto and any obligations which expressly or by implication are intended to come into or continue in force on or after such expiry or termination.

15.5 On termination of the project contract and in breaches of any contractual obligations by the appointed Service Provider, BOKSS reserves the right to claim and take any actions or legal proceedings for recovery or compensation as a result.

16 Governing Law and Arbitration

16.1 The Contract shall be governed by and construed in accordance with the laws of Hong Kong and, subject to Clause 16.2 and 16.3, the parties hereby agree to submit to the exclusive jurisdiction of the courts of Hong Kong in relation to any matters arising out of the Contract.

16.2 Any dispute or difference between the parties arising out of or in connection with the Contract shall first be resolved by informal means; and if no settlement is reached within 28 days, such dispute or difference shall first be referred for mediation in accordance with the prevailing Hong Kong International Arbitration Centre Mediation Rules.

16.3 If the matter cannot be resolved by mediation or either party to the Contract or does not wish the matter to be referred for mediation, either party may within 90 days from the failure of the mediation or the refusal to mediate (as the case may be) require that the matter be referred for arbitration in accordance with and subject to the provisions of the Arbitration Ordinance (Cap. 609). Any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Ordinance. The decision reached from the arbitration shall be final and binding on the parties. The prevailing Hong Kong International Arbitration Centre Domestic Arbitration Rules shall apply to any arbitration instituted under this section. Unless otherwise agreed, the appointed Service Provider shall continue to provide the Service during the resolution of the dispute or difference.

17 Probity and Anti-collusion

17.1 Service Providers shall not, and shall ensure that any of their employees, agents or related parties will not, offer, give, solicit or accept any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) in connection with this invitation.

17.2 Service Providers must ensure that the Proposal is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person, including regarding price, Proposal submission procedure or any terms of the Proposal. In the event of any breach of this clause by any Service Provider, the BOKSS reserves the right to invalidate the Proposal submitted by that Service Provider and seek damages.

17.3 Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Cap.619). Service Providers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.

17.4 Upon the submission of a Proposal, the Service Provider shall submit to the BOKSS a **Confirmation Letter for Compliance with the Anti-Collusion Requirements** (in the form set out at Appendix 3) duly signed by an authorized person on the Service Provider's behalf.

17.5 Any breach of or non-compliance with the requirements under this clause shall invalidate the Proposals of the Service Providers concerned. If the BOKSS has appointed the Service Provider without knowing the breach or non-compliance, the BOKSS shall be entitled to immediately terminate the appointment and claim all losses and costs incurred in connection with the Service. The rights of the BOKSS under this clause are in addition to and without prejudice to any other rights or remedies available to the BOKSS against the appointed Service Provider.

18 Project Management

18.1 Service Provider required to professionally managing the project in order to deliver the required system and other deliverables in time and with good quality. Service Provider is required to use Gantt Chart, Work Breakdown Schedule and other necessary tools to manage and report the project plan and status to BOKSS representatives. Service Provider is required to organize regular progress meeting with BOKSS representatives to report project status and

prepare meeting minutes for BOKSS confirmation.

19 User Acceptance Test

19.1 The Service Provider shall fully install and test all the proposed components to the satisfaction of the BOKSS according to the acceptance tests proposed by the Service Provider and agreed to by the BOKSS. The test procedures shall include the functional, compatibility, performance and reliability tests for all of the supplied components or systems. The Service Provider shall also provide all necessary equipment and accessories. If the BOKSS considers that the proposed test procedures are not adequate for testing all the features and functions, the Service Provider shall make necessary amendments to such test procedures to the satisfaction of the BOKSS.

20 Schedule of Events

Event	Date
Tender Documents Distribution to Vendors	19/8/2019
Tender Documents Submission Date	10/9/2019
Presentation Date	11/9/2019

21 Enquiries

21.1 Any enquiry can be raised with Ms. Carissa Pang at:
Tel: 2729 8111
Email: pm.vmps@bokss.org.hk