

## 法律及相關服務的供求情況顧問研究

2004年1月15日司法及法律事務委員會會議上，議員要求律政司提供以下資料－

“本港法律服務供求情況的社會法律方面研究的策劃和進行詳情(包括負責進行研究的中標者的資料，以及研究的預計費用)。”

### 背景

— 2. 顧問研究的背景和目的簡介載列於附錄1。

### 規劃工作

— 3. 律政司就這項計劃進行的規劃工作，由一個諮詢委員會協助。該會的職責範圍和成員名單載列於附錄2。

### 遴選顧問的工作

4. 遴選顧問以便進行研究工作的過程，由中央顧問遴選委員會(“遴選委員會”)監督，並分為下列階段：

(1) 2003年3月20日，律政司刊登競投意向書的邀請書，並向共174間機構發出信件，邀請他們遞交競投意向書。該等機構包括136間研究公司、17間財務顧問公司、10間駐香港領事辦事處、9所本地大學，以及香港大學法律學院和香港城市大學法律學院。律政司收到14份競投意向書。

(2) 在得到諮詢委員會的批准後，律政司從上述回覆機構中初步選出11家機構。2003年8月13日，遴選委員會通過初步入選機構名單。

- (3) 2003 年 8 月 26 日，律政司把邀請信連同顧問工作簡介寄交初步入選的機構。
- (4) 截至 2003 年 10 月 10 日投遞標書的最後限期，6 家初步入選的機構就計劃提交了建議書。
- (5) 由諮詢委員會委員組成的評核委員會於 2003 年 12 月 15 日和 20 日開會，聽取 6 家機構作出的口頭陳述，並考慮它們所提交的意見書。
- (6) 評核委員會將會就挑選顧問研究的機構作最後決定前進行磋商。

## 預計費用

5. 該項研究的費用尚未確定，原因是評核委員會和機構就計劃的研究方法和時間表進一步磋商後，標書的報價可能有所調整。不過，可以肯定的是：有關費用的金額不須提交財務委員會批准。

## 進行研究

6. 有關研究預計會在數月內展開，為期三年左右。在這段期間，顧問須每隔一季左右向諮詢委員會匯報進度，並應律政司要求隨時進行匯報。

律政司  
法律政策科  
2004 年 3 月

#618593 v 2 (ADD)

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

## **Background**

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

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

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

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

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

## **Objectives**

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

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

### **Scope of the consultancy**

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

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

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

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

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

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

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

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

(c) Analysis of combined findings of the two studies

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

(d) Methodology

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

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

**Duration of the consultancy**

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

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

### **TERMS OF REFERENCE**

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

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

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

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