

CHAPTER 6

TENDER PROCEDURE

The parts of the PAH shown in blue and bold should only be updated by Works Branch of Development Bureau.

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SYNOPSIS

This Chapter sets out the procedures for obtaining and assessing tenders for all capital works contracts which are basically in accordance with Stores and Procurement Regulations (SPRs).

To cater for the wider adoption of New Engineering Contract (NEC) form in public works projects, DEVB has promulgated the “Practice Notes for New Engineering Contract – Engineering and Construction Contract (NEC–ECC) for Public Works Projects in Hong Kong” (referred to as “the Practice Notes”) aiming to provide guidance, performance benchmarking and alignment of practices in the administration of public works projects using NEC form. The most updated version of the Practice Notes is available at DEVB’s website:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_contract_documents/practice_notes_nec_engineering_construction_contract/index.html

Whilst the guidelines provided in this Chapter were originally written for tender procedure under GCC, the majority of them can still be applied to tender procedure under NEC and tenders for term and maintenance contracts subject to any modifications set out in Chapter 8 “Maintenance and Minor Works and Works for and by Others”. Where appropriate, this Chapter shall be read in conjunction with the Practice Notes for relevant subjects of tender procedure. In addition, project officers shall refer to the relevant guidelines or practice from corresponding Works Departments regarding how the duties of the Engineer / Architect / Surveyor / Supervising Officer under GCC form contracts would be taken up by the Project Manager / Supervisor under NEC form contracts. Please also refer to para. II.04 in this Chapter for the comparison of common terminologies used under GCC and NEC–ECC.

In addition, these procedures apply to tenders for design and build contracts, subject to the modifications set out in the Administrative Procedures for Use with the Government of the Hong Kong Special Administrative Region (HKSAR) General Conditions of Contract for Design and Build Contracts, which can be found on the DEVB website (under Publications and Press Releases\Publications\Standard Contract Documents\). The additional procedures for procurement covered by the Agreement on Government Procurement of the World Trade Organization are also set out.

Tenders for contracts may only be invited after obtaining authority, either by the inclusion of the project in Public Works Programme Category A or D, or by approval from the respective Policy Secretaries. The Secretary for Financial Services and the Treasury has delegated authorities to all Policy Secretaries to allow tenders for works projects, irrespective of type and value, to be invited before funding is secured subject to the conditions as set out in Financial Circular No. 3/2020. However, tender action is normally subject to the availability of funds and of land, and the completion of legal and administrative procedures.

Tenders are normally invited from contractors in the appropriate categories and groups of Development Bureau Lists of Approved Contractors for Public Works or Approved Suppliers of Materials and Specialist Contractors for Public Works through notification in the Government of the HKSAR Gazette or through invitations published on the Internet. For occasions where the quality of service or product is a major consideration, a marking scheme in tender evaluation should be adopted. A separate exercise for prequalification of tenderers should only be employed in exceptional situation with sound justifications. Minor services

and stores are procured in accordance with SPRs. Supply-only tenders are normally handled by the Government Logistics Department. Government tender procedure is not required for Government works entrusted to non-government bodies, such as MTR Corporation Limited, who will themselves be responsible in accordance with their own tender procedure.

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I. ABBREVIATION

- I.01 The meaning of the abbreviations assigned in this Chapter of the Project Administration Handbook for Civil Engineering Works shall only apply to this Chapter.
- I.02 The following list shows the meaning of the abbreviations for the common terms used in this Chapter of the Project Administration Handbook for Civil Engineering Work:

Abbreviation	Term
AFCD	Agriculture, Fisheries and Conservation Department
ArchSD	Architectural Services Department
ASP	Authorized Services Providers
BJO	Beijing Office
BQ	Bills of Quantities
Cat.	Category
CTB	Central Tender Board
COLO(Unit 3)	Chief Official Language Officer (Translation Unit 3)
CIO	Chief Information Officer
CEDD	Civil Engineering and Development Department
CSB	Civil Services Bureau
C&D	construction and demolition
CITA	Construction Industry Training Authority
CMIS	Contractor Management Information System
D of J	Department of Justice
D&B	Design and Build
DEVB TCW No.	DEVB Technical Circular (Works) No.
DEVB	Development Bureau
D of A	Director of Audit
D of Adm	Director of Administration
D of GL	Director of Government Logistics
DSD	Drainage Services Department
EMSTF	Electrical and Mechanical Services Trading Fund
EDP	Electronic Dissemination Package
ETWB	Environment, Transport and Works Bureau
EIA	Environmental Impact Assessment
EPD	Environmental Protection Department
ETWB TCW No.	Environment, Transport and Works Bureau Technical Circular (Works) No.
FC No.	Financial Circular No.
FSTB	Financial Services and the Treasury Bureau
GCC	General Conditions of Contract for Civil Engineering Works (1999 Edition)

Abbreviation	Term
GCT	General Conditions of Tender
GS	General Specification for Civil Engineering Works (2020 Edition)
GEO	Geotechnical Engineering Office
HQ	Headquarters
HyD	Highways Department
HKSAR	Hong Kong Special Administrative Region
I&PR	Information and Public Relations Unit
LWBTC No.	Lands and Works Branch Technical Circular No.
LAD(W)	Legal Advisory Division (Works)
LCSD	Leisure and Cultural Services Department
LD	Liquidated Damages
MRC	Managing Review Committee
MFC	Marine Fill Committee
MTRCL	MTR Corporation Limited
NEC	New Engineering Contract
NEC-ECC	New Engineering Contract – Engineering and Construction Contract
No.	Number
Para.	Paragraph
PP	Particular Preambles
PS	Particular Specifications
PSTsy	Permanent Secretary for Financial Services and the Treasury (Treasury)
PIO	Principal Information Officer
PAH	Project Administration Handbook for Civil Engineering Works
PFC	Public Fill Committee
PWD TC No.	Public Works Departmental Technical Circular No.
PWP	Public Works Programme
PWSC	Public Works Sub-Committee
PWTB	Public Works Tender Board
SDEV	Secretary for Development
SETW	Secretary for the Environment, Transport and Works
SFST	Secretary for Financial Services and the Treasury
S for Tsy	Secretary for the Treasury
S for W	Secretary for Works
SEO(PS)	Senior Executive Officer (Professional Services)
SCC	Special Conditions of Contract
SCT	Special Conditions of Tender
SDR	Special Drawing Rights
SMM	Standard Method of Measurement for Civil Engineering Works (1992 Edition)

Abbreviation	Term
SPO	Secretariat Press Officer
SPRs	Stores and Procurement Regulations
SMP	Sub-contractor Management Plan
TLB	Transport and Logistics Bureau
TD	Transport Department
VSRS	Voluntary Sub-contractor Registration Scheme
WSD	Water Supplies Department
WBTC No.	Works Bureau Technical Circular No.
WTO GPA	Agreement on Government Procurement of the World Trade Organization

II. GLOSSARY OF TERMS

II.01 Words and expressions to which meanings are assigned in this Chapter of the Project Administration Handbook for Civil Engineering Works (PAH) shall only apply to this Chapter.

II.02 In this Chapter of the PAH the following words and expressions shall have the meaning hereby assigned to them except when the context otherwise requires:

“Government” means the Government of the Hong Kong Special Administrative Region.

“project office” means the office responsible for the planning, design and construction of the project.

(Where these functions are performed by different offices at different stages, the project office shall mean the office responsible at each particular stage.)

“Contract”, “Contractor”, “Drawings”, “Employer”, “Engineer” and “Engineer’s Representative” are as defined in the General Conditions of Contract for Civil Engineering Works (1999 Edition) or the General Conditions of Contract for Term Contracts for Civil Engineering Works (2002 Edition).

“Schedule of Rates” and “Works Order” are as defined in the General Conditions of Contract for Term Contracts for Civil Engineering Works (2002 Edition).

II.03 Words importing the singular only also include the plural and vice versa where the context requires.

II.04 The common terminologies used in GCC and NEC–ECC are compared in the table below.

GCC	NEC–ECC
Extension of time, variations, claims, disruptions, loss and expenses	Compensation events
Bills of Quantities / Schedule of Rates	Bill of Quantities / Activity Schedule
Architect / Engineer / Surveyor / Supervising Officer	Project Manager / Supervisor
Site	Site / Working Areas
Contract Sum	The Prices
Date of completion	Completion Date
Estimated value of works	Price for Work Done to Date
Maintenance Periods	Defects date, defect correction period

1. TENDER PROCEDURE CHECKLIST

This tender procedure checklist provides a general list of actions to be taken and it may not cover all situations. Individual departments/offices/divisions should extract this list, expand it if necessary to include internal procedures of the department/office/division concerned, and make it a standard requirement for a copy of the check-list to be kept in the relevant project file and project handbook. The project engineer should record in the “Remarks” column of the checklist the file reference and other relevant information when action on any item is completed.

Item No.	Procedure	Reference	Remarks
1.	PRIOR TO TENDERING		
1.1	Decide method of calling for tenders	Para. 2.1.1	
1.2	Decide method of tender evaluation	Para. 2.1.5 & 2.1.6	
1.3	Seek policy support and obtain approval to use non-standard marking scheme (if required)	Para. 2.1.5	
1.4	Prepare schedule for tender procedures	Para. 2.4	
1.5	Obtain authority to call for tenders	Para. 3.1	
1.6	Check availability of funds	Para. 3.2	
1.7	Check availability of land	Para. 3.3	
1.8	Complete legal and administrative procedures	Para. 3.4 & Chapter 3	
1.9	Complete tender documents (for contract estimated to exceed \$500 million, arrange legal vetting of tender documents)	Para. 3.5 & Chapter 5	
1.10	Check interfacing and handover of land	Para. 3.6	
1.11	Check estimated value of the contract in need for compliance with the WTO GPA tendering procedures	Para. 3.7	
1.12	Not Used		
1.13	Seek legal advice for restriction on the maximum number of contracts to be undertaken by the same contractor (if imposed)	Para. 3.11	
2.	CALLING FOR TENDER (The following applies to normal tendering procedures. For single and restricted tendering and prequalified tendering, see Para. 4.2 and 4.3 respectively for general guidelines)		
2.1	Determine categories and groups of contractors eligible to tender	Para. 4.1.1	
2.2	Complete routing sheet, check-list and estimates summary	Para. 4.1.2	
2.3	Obtain approval to proceed with tender invitation / Complete memo requesting publication of gazette notice (if required)	Para. 4.1.2	

Item No.	Procedure	Reference	Remarks
2.4	Arrange tender notice for publication in department's Home Page on the Internet / Arrange publication of gazette notice (if required) / Arrange publication of tender notice in local press (if necessary)	Para. 4.1.2	
2.5	Arrange publication of press release (if required)	Para. 4.1.2	
2.6	Issue tender documents (for procurement covered by WTO GPA, forward tender documents to tenderers upon receipt of a written request from tenderers)	Para. 4.1.1 & 4.1.3	
2.7	Issue EDP with tender documents and to ASP	Para. 4.1.3	
3.	ACTION DURING TENDER PERIOD		
3.1	Arrange pre-tender meeting (if necessary)	Para. 5.1	
3.2	Arrange tender addendum by circulation letter (if required)	Para. 5.2	
3.3	Deal with queries from tenderers	Para. 5.3	
3.4	Arrange sale of plans or drawings (if required)	Para. 5.4	
3.5	Arrange legal vetting of substantial alteration to tender documents for contracts estimated to exceed \$500 million in value (if necessary)	Para. 5.6	
3.6	Arrange extension of time for tendering (if necessary)	Para. 5.7	
3.7	Seek tenderers' agreement to extension of tender validity period (if necessary)	Para. 5.8	
4.	EXAMINATION OF AND REPORT ON TENDERS		
4.1	Establish assessment panel to evaluate the technical submission for marking scheme approach	Para. 6.3	
4.2	Declaration of conflict of interest by tender examination team	Para. 6.4	
4.3	Check if all electronic files in the tender return has been 'digitally signed' (if necessary)	Para. 6.5	
4.4	Check electronic submission of tender return according to Appendix 6.34 (if necessary)	Para. 6.5 & Appendix 6.34	
4.5	Check if all tenderers contain the names and addresses of all the partners or offices as appropriate	Para. 6.6	
4.6	Seek clarification from tenderers and request confirmation by writing (if required)	Para. 6.6	
4.7	Check and correct errors in the pricing document according to ETWB TCW No. 41/2002	Para. 6.6, 6.9 & ETWB TCW No. 41/2002	

Item No.	Procedure	Reference	Remarks
4.8	Bring to Engineer designate's attention and investigate unreasonably low or high rates, missing rates and items of which any changes in quantity would materially affect the final contract price	Para. 6.8	
4.9	Check all tenders for eligibility to tender	Para. 6.12	
4.10	Check tenderer's past performance on DEVB's CMIS as appropriate	Para. 6.14.1, 6.14.2 & ETWB TCW No. 3/2007	
4.11	Not Used		
4.12	Conduct tender evaluation based on a marking scheme approach or a formula approach according to DEVB TCW Nos. 4/2014 & 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated 9.7.2021 <u>10.11.2023</u> Amd No. 2/2024	Para. 6.14.2, DEVB TCW Nos. 4/2014 & 4/2014A & SDEV's memo ref. () in DEVB(W) 546/84/01 dated 9.7.2021 <u>10.11.2023</u> Amd No. 2/2024	
4.13	Assess designs and/or alternative designs by tenderers (if alternative designs/tenders are invited)	Para. 6.11	
4.14	Check and evaluate technical submission	Para. 6.14.3	
4.15	Calculate present value of contract prices (if required)	Para. 6.13	
4.16	List tenders in order of the combined price/quality score	--	
4.17	For the 3 tenderers with the highest combined price/quality score,		
4.17.1	Check if tenders have been signed by person authorized to sign tenders	Para. 6.14.4	
4.17.2	Check amount of work allowed under probationary status (if necessary)	Para. 6.14.4	
4.17.3	Check financial capability	Para. 6.14.4	
4.17.4	Check return of certification for tender addenda	Para. 6.14.4	
4.18	Check eligibility to tender and for the award of contracts for contractors and specialist contractors with probationary status (if necessary)	Para. 6.14.6	
4.19	Conduct tender negotiations (if necessary)	Para. 6.17	
4.20	Complete tender report recommending acceptance of tender	Para. 6.15 & 6.18	
4.21	Obtain endorsement of tender report	Para. 6.19	
4.22	Submit tender report to tender board (if required)	Para. 6.20	
5.	ACCEPTANCE OF TENDER		

Item No.	Procedure	Reference	Remarks
5.1	Obtain authorization to accept tender	Para. 7.1	
5.2	Copy the approval memo to D of A and D of GL for information	Para. 7.1	
5.3	Arrange safe custody of all tenders returned with the tender report	Para. 7.1	
5.4	Check availability of funds	Para. 7.2	
5.5	Check availability of land	Para. 7.2	
5.5.1	Check whether the Employer/Engineer designate has issued a notification in writing on reduction of Contingency Sum (if applicable)	Para. 7.2	
5.6	Review and notify tenderer of rate of LD entered in the tender documents / Decide correspondence to be formed as part of the Contract	Para. 7.2 & 7.2.1	
5.7	Fix date for execution of the Articles of Agreement	--	
5.8	Send letter of acceptance to successful tenderer	Para. 7.3	
5.9	Send letter to unsuccessful tenderers	Para. 7.4.1	
5.10	Response to queries and arrange debriefing to unsuccessful tenderers (if necessary)	Para. 7.4.2 & 11.6	
5.11	Report tendering performance to Managing Departments	Para. 7.7	
6.	PREPARATION OF CONTRACT DOCUMENTS		
6.1	Prepare, check and seal original, duplicate, triplicate (and quadruplicate, in case of consultant-managed contracts) and 3 certified true copies of contract documents (i.e. one hardcopy and two electronic copies of the certified true copies of contract documents) Amd No. 1/2023	Para. 8.1 & 8.2	
6.2	Check and obtain approval of proposed bondsman and bond (if necessary)	Para. 8.3	
6.3	Check Contractor's business registration details	Para. 8.4	
6.4	Check Contractor's insurance policies and premium receipts (if required)	Para. 8.4	
6.5	Check Contractor's Power of Attorney (if required)	Para. 8.4	
6.6	Check Contractor's security deposit receipt (if required)	Para. 8.4	
6.7	Check Joint Venture Guarantees (if required)	Para. 8.4	
7.	EXECUTION OF ARTICLES OF AGREEMENT		
7.1	Arrange publicity for contract signing (if necessary)	Para. 9.4	
7.2	Signing of original and duplicate of contract documents (by the Contractor and Government signatories)	Para. 9.2	

Item No.	Procedure	Reference	Remarks
7.3	Record Contractor's insurance policies (if required)	Para. 9.2	
7.4	Retain/Return Contractor's insurance policies (if required)	Para. 9.2	
7.5	Issue acknowledgement letter to Contractor for receipt of documents (if required)	Para. 9.3	
8.	DISTRIBUTION OF CONTRACT DOCUMENTS		
8.1	Forward original and 3 certified true copies of contract documents (i.e. one hardcopy and two electronic copies of the certified true copies of contract documents) Amd No. 1/2023 together with the originals or certified true copies of any surety bond, insurance policies and premium receipts to departmental headquarters by hand (different arrangement for HyD)	Para. 10	
8.2	Deliver duplicate of contract documents to the Contractor and check for its receipt	Para. 10	
8.3	Forward triplicate of contract documents to the Engineer	Para. 10	
8.4	Notify relevant tender boards or D of GL for details of the contract awarded	Para. 11.4 & 11.5	
8.5	Check EDP return notice by ASP	Para. 11.7	

2. GENERAL

2.1 METHODS OF CALLING FOR TENDERS

2.1.1 For Contracts Generally

The methods of calling for tenders are listed in the following tables:

NORMAL PROCEDURE (This procedure should be used wherever possible)		
Method	Applications	Eligible Tenderers
Tenders invited by notification on Internet and, if required, in Government Gazette (see Para. 4.1)	For works generally	All contractors in the appropriate categories and groups of DEVB List of Approved Contractors for Public Works (see Section 2 of Contractor Management Handbook and Para. 4.1.1)
	For specialist works and supply of materials where an appropriate specialist category exists in DEVB List of Approved Suppliers of Materials and Specialist Contractors for Public Works	All contractors/suppliers in the appropriate specialist category of DEVB List of Approved Suppliers of Materials and Specialist Contractors for Public Works (see Section 3 of Contractor Management Handbook and Para. 4.1.1)

SPECIAL PROCEDURE (The approval of SFST must be obtained prior to inviting tenders under these circumstances)		
Method	Applications	Eligible Tenderers
Tenders invited by direct invitation (see Para. 4.2)	For emergency works under which curtailment of the normal tender procedure is essential, and for works where public invitation to tender is undesirable	Contractors chosen from DEVB Lists for their ability to carry out the works (see Para. 4.2)
	For specialist works where there is no appropriate category in DEVB List of Approved Suppliers of Materials and Specialist Contractors for Public Works, and for works where invitation of tenders from Contractors on DEVB Lists generally is considered inappropriate (see Para. 4.2)	Contractors chosen after a prequalification exercise, which may be local or overseas and may not necessarily appear in DEVB Lists (see Para. 4.3)

2.1.2 For Minor Services and Stores

The procedures laid down in SPRs 200 to 290 shall be followed as appropriate for the procurement of stores and services/procurement of consultancy services of value not exceeding the financial limits stated in SPR 220/SPR 221.

The tender procedures/consultants selection procedures laid down in Chapter III/Chapter IV of the SPRs shall be followed as appropriate when making the purchases of stores and services/procurement of consultancy services exceeding the financial limits stated in SPR 220/SPR 221.

2.1.3 For Supply-only Tenders

Supply-only tenders are to be arranged through the Government Logistics Department following the procedures laid down in SPRs. Supplies Officer of the department/office should be consulted regarding the arrangements.

2.1.4 For Government Works Entrusted to Outside Bodies

For Government works entrusted to outside bodies (e.g. MTRCL) tenders are obtained by the agencies using their own procedures. However, prior approval by SFST of the proposed arrangement must be obtained whenever funding by Government is involved.

2.1.5 Use of Marking Schemes in Tender Evaluation

(Ref.: SDEV's memos ref. () in DEVB(W) 546/84/01 dated 25.2.2021 and ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024.)

SPR 350(h) specifies the types of contracts for which departments may consider adopting a marking scheme in tender evaluation. With a view to adopting a more transparent and systematic approach to tender evaluation, putting more emphasis on the quality of tender and eliminating the time-consuming prequalification process, DEVB TCW Nos. 4/2014, 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024 stipulate a wider application of the marking scheme method. A separate exercise for prequalification of tenderers should only be employed in accordance with the guidelines for prequalification given in ETWB TCW No. 5/2015.

Guidelines on the use of marking schemes for tender evaluation are given in SPRs Appendix III(G) and DEVB TCW Nos. 4/2014, 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024. If departments wish to make any modifications to the standard marking scheme, they must seek policy support from the Works Policy Division of DEVB or TLB before they proceed to obtain approval from the relevant tender board. This procedure must be complied with prior to invitation to tender. In seeking policy support for the use of a non-standard marking scheme, departments should provide a brief description of the works, the special features of the contract, justification for the use of a non-standard marking scheme, respective weights for quality and price, assessment criteria and their relative weights, and passing mark for individual attributes. The departments should also provide detailed explanation on why the standard marking scheme is considered inapplicable. The departments will only be allowed to proceed with submission to the relevant tender board for approval of a non-standard marking scheme after they have obtained the said policy support. No alteration to an approved marking scheme may be made without the prior approval of the relevant tender board. If departments wish to adopt the

option of 50/50 for the “price to technical weighting” in the Standard Marking Scheme, they are required to seek policy support from DEVB in accordance with SDEV’s memo referenced () in DEVB(W) 546/84/01 dated 25.2.2021.

Notwithstanding the above, departments should not adopt marking schemes in tenders where in their opinion EMSTF may have an interest to bid in order to guard against potential bid challenges. Please refer to DEVB TCW Nos. 4/2014 and 4/2014A and SDEV’s memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024 for details.

For maintenance works contract, please also refer to WBTC Nos. 15/99 & 15/99A and ETWB TCW No. 15/99B for details. If there are minimum requirements for which the tenderers must comply with before their tenders will be considered further, departments should include all the necessary details of these mandatory requirements and the consequence of non-compliance in the Notes to Tenderers.

For contracts involving tunnel works, the marking scheme for the tenderers’ technical submissions should contain elements and due weight for assessment against the minimum requirements governing the competence and experience of site supervision staff, including geotechnical/tunnelling/blasting specialists, that the contractor is required to employ under the contract (Ref.: ETWB TCW No. 15/2005).

2.1.6 A Formula Approach to Tender Evaluation

Guidelines on the formula approach are found in DEVB TCW Nos. 4/2014 and 4/2014A and SDEV’s memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024. For public works contracts being applied by DEVB TCW No. 4/2014 and the tender invitations of which are issued **on or after 1 October 2018**, the “training rating” shall be incorporated in the Formula Approach and the Standard Marking Scheme for evaluating tenders from Group C contractors. In the case of open tendering, or where tenders are invited from contractors other than Group C contractors enlisted in any category of the List of Approved Contractors for Public Works, the “training rating” shall also be incorporated in the Formula Approach and the Standard Marking Scheme for evaluating tenders if the department has assessed that not less than 80% of potential tenderers would be Group C contractors enlisted in any category of the List of Approved Contractors for Public Works so that the past performance assessment criterion in connection with the provision of on-the-job training to workers could be meaningfully adopted and put to use.

2.2 TENDER BOARDS

(Ref.: SPR 310 & Appendix II, FC No. 3/2009 and the Civil and Miscellaneous Lists of the Government of the HKSAR)

The Financial Secretary has appointed several tender boards (the Central Tender Board and other subsidiary tender boards), each consisting of not less than three persons, to consider and decide on the acceptance of tender. Updated information on the membership and terms of reference of these tender boards can be found in the Civil and Miscellaneous Lists of the Government of the HKSAR, which can be viewed at the website <https://www.info.gov.hk/cml/eng/cbc/c23.htm>. The following tender boards mainly deal with public works:

- (a) Central Tender Board

The CTB is to deal with high value tenders, which exceed those values specified for the subsidiary tender boards. For construction services, tenders exceeding \$200 million are considered by the CTB. It also advises on matters concerning tenders, contracts and subsidiary tender boards generally.

The CTB normally meets on every Wednesday except near holidays and except when a Central Consultants Selection Board meeting, which is held monthly, is scheduled for the following week. However, the Chairman may, if necessary, fix a meeting on any weekday instead.

The Tender Box for the CTB is located at the lobby of the Public Entrance on the Ground Floor, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong

(b) Public Works Tender Board

The PWTB is to deal with tenders for works contracts not exceeding \$ 200 million.

The PWTB normally meets on every Wednesday. However, the Chairman may, if necessary, fix a meeting on any weekday instead, or direct that certain tenders be circulated for consideration and approved by the Board Members.

The Tender Box for the PWTB is located at Room 503, 5/F., Low Block, Queensway Government Offices, 66 Queensway, Hong Kong.

Under the simplified tendering arrangement promulgated in FC No. 3/2009 (updated on 28 September 2020), Controlling Officers can approve the award of works contracts that fall within certain criteria. (see Para. 7.1 for details)

2.3 DEVB LISTS OF APPROVED CONTRACTORS

DEVB maintains two lists of approved contractors for public works, namely:

- (a) The List of Approved Contractors for Public Works, and
- (b) The List of Approved Suppliers of Materials and Specialist Contractors for Public Works.

Contractors registered under (a) above are eligible to submit tenders for the respective category of contracts arising in the five works categories into which the majority of Government public works contracts fall, namely, Buildings, Port Works, Roads and Drainage, Site Formation and Waterworks. (Section 2 of Contractor Management Handbook gives more details of the rules for administration of the List of Approved Contractors for Public Works)

The List of Approved Suppliers of Materials and Specialist Contractors for Public Works is a register of suppliers of materials and specialist contractors eligible to submit tenders for contracts arising in the respective specialist categories in the List and in certain circumstances to act as sub-contractors to main contractors. Current categories of specialist

suppliers/contractors contained in the List are given in Appendix 3A of Contractor Management Handbook. (Section 3 of Contractor Management Handbook gives more details of the rules for administration of the List of Approved Suppliers of Materials and Specialist Contractors for Public Works)

Contractors included in the above approved lists should be required to notify in writing immediately or in the tender submission of any factor that might affect their qualified status to tender. The Government has the right to review their qualified status in the light of any new information provided on their qualifications.

2.4 TIMING FOR TENDER PROCEDURES

Sufficient time should be allowed for tender procedures. A survey conducted by the Census and Statistics Department revealed that a tight tendering period would pose higher risk to the Contractor and resulting in a higher tender price. Project Officers shall allow for a sufficient tendering period with a view to lowering the tender premium and hence the overall project cost. The timing shown in the following table provides guidance in this respect:

TIMING FOR TENDER PROCEDURES				
Procedures	Normal Procedure		Special Procedure	
	Time Allowed (Weeks)	Cumulative Total (Weeks)	Time Allowed (Weeks)	Cumulative Total (Weeks)
Invitation to tender (Note 1)	0 - 1 (1 - 3 for WTO GPA)	0 - 1 (1 - 3 for WTO GPA)	1 - 12	1 - 12
Tendering period (Note 2)	1 - 3 (At least 6 for WTO GPA)	1 - 4 (7 - 9 for WTO GPA)	3 - 12	4 - 24
Recommendations submitted (Note 3)	2 - 12	3 - 16 (9 - 21 for WTO GPA)	2 - 12	6 - 36
Contract signed	1 - 2	4 - 18 (10 - 23 for WTO GPA)	1 - 4	7 - 40
Works commencement	1 - 2	5 - 20 (11 - 25 for WTO GPA)	1 - 2	8 - 42

Note 1 The time allowed for invitation to tender under the 'normal procedure' is for the arrangement of publishing tender notice on the Internet, in the Government Gazette and if necessary, in the local press and in selected overseas journal for the particular trade/ product. According to FC No. 3/2009, tender invitations for all works contracts not exceeding \$55 million each need only be published on the Internet and therefore significant time can be reduced.

For works contracts covered by WTO GPA, it is still required to publish the tender notices in the Government Gazette and on the Internet in accordance with SPR 340 and SFST's memo ref. (50) in L/M No. (3) to S6/1/21 dated 9.9.2010. Time should

also be allowed for the arrangement of advertising if press release on the local and/or international press is/are considered necessary.

The time allowed under the 'special procedure' covers that required for obtaining the necessary approval for single and restricted tendering or prequalification tendering. More time may be required for these tendering procedures due to extra consideration being necessary.

Note 2 Please refer to DEVB TCW No. 2/2014, FC No. 3/2009 and SPR 340 (f) for the time limits for tendering and delivery for works contracts covered by WTO GPA and simplified tendering arrangement. The prequalification in regard of WTO requirements is also applicable to design and build contracts.

Notwithstanding the above, the time allowed for the tendering period may be longer having regard to the nature, scope and complexity of the contract and may depend on the necessity for the tenderers to produce alternative designs or to arrange sub-letting of specialist works.

Departments should bear in mind that a longer tendering period and a longer tender validity period may be required if a marking scheme is adopted.

Note 3 Tender recommendation should be made as expeditiously as possible. The upper range of the time allowed is to cover cases where complication arises, e.g. queries to tenderer, queries from tender board or tender negotiation is required.

While tender evaluation, including financial vetting, normally takes 4 to 6 weeks, Controlling Officers should aim to complete tender evaluation within 2 to 3 weeks for works contracts not exceeding \$55 million in accordance with FC No. 3/2009. For those covered by WTO GPA, the time frame for submission to the relevant tender board stipulated in SPR 375(b) should be observed, particularly in relation to the timing of the tender board meetings.

2.5 INTEGRITY

2.5.1 As stipulated in the SPR 109(d), integrity is one of the principles underpinning the policy of government procurement. To uphold the integrity of government procurement, procurement process and decisions should be done in an impartial manner. Procuring officers shall observe relevant guidelines and procedures in the Civil Service Code¹, Civil Service Regulations (CSR)², Civil Service Bureau (CSB) Circulars and Circular Memoranda², and SPRs³ on how to prevent or deal with conflict of interest situations and other integrity matters relating to government procurement.

¹ CSB's website: <https://www.csb.gov.hk/english/admin/conduct/1751.html>

² Procuring officers' particular attention is drawn to the list of CSR and CSB Circulars & Circular Memoranda under the subjects of **Conflict of Interest, Acceptance of Advantages and Entertainment and Investments** at Annex of the Civil Service Code.

³ Procuring officers' particular attention is drawn to Chapter 1A of SPRs on **Avoiding and Managing Conflict of Interest in Government Procurement**.

2.5.2 Other useful resources published by the Independent Commission Against Corruption (ICAC) such as “Corruption Prevention Guide on Government Procurement of General Goods and Services” and “Toolkit on Managing Declared Conflict of Interest for Civil Servants” are also available on the Intranet of the Central Cyber Government Office (<https://portal.ccgo.hksarg/en/>) for procuring officers’ reference.

3. PREREQUISITES TO CALLING FOR TENDERS

3.1 AUTHORITY TO CALL FOR TENDERS

For works in the Public Works Programme, authority to call for tenders is given automatically when Finance Committee or SFST approves the item for inclusion in Cat. A or D. With a view to expediting the delivery of the capital works projects, SFST through FC No. 3/2020 has delegated authorities to all Policy Secretaries to allow tenders for works projects, irrespective of type and value, to be invited before funding is secured without separate recourse to FSTB with conditions. The authorization also extends to cover the initiation of prequalification exercises for works tenders. However, it should be noted that with the promulgation of the use of marking scheme according to DEVB TCW Nos. 4/2014 & 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024, a separate exercise for prequalification of tenderers should normally be unnecessary and departments may adopt Stage I Screening in conjunction with a marking scheme in lieu of prequalification. References should be made to WBTC No. 15/99, ETWB TCW Nos. 15/99B and 5/2015.

3.2 AVAILABILITY OF FUNDS

Prior to tendering, the relevant division/regional office must check to ensure that funds will be available by the time the contract is expected to be awarded. In this connection, it is important to check that a subhead will be created in time for Cat. A items, whereas for Cat. D items that funds will be available in the Block Vote. For contracts undertaken by a works department on behalf of a client department, the relevant division/regional office has to check that the appropriate Letter of Intent will reach the works department before the contract is awarded. For other cases, reference should be made to Chapter 8 "Maintenance and Minor Works and Works for and by Others".

In any case, a procuring department must not enter into contractual commitments of any kind and must not notify the successful tenderer that the Government would accept his tender until funding has been approved.

3.3 AVAILABILITY OF LAND

Land required for the works may include works site, works area, borrow and fill areas etc. Land must be available by the time the contract is expected to commence, unless specific provision has been made in the tender documents for staged possession of the site by the Contractor. Where the contract works involve removal of unsuitable materials, such as sea mud or toxic materials, the confirmation of the availability of a suitable dumping site is necessary. Land clearance and resumption therefore must be arranged to suit, and confirmation of its availability included in the memo accompanying the draft Gazette Notification or other request for authority to invite tenders as appropriate. There may however be occasions where it is not possible to give confirmation of land resumption and clearance prior to tendering. In such cases, justification should be made to the approval authority for the necessity to start tender procedures before the normal confirmation can be given.

As far as practicable, site possession date must be agreed with the party who is accountable for the availability of site so that it can be held responsible for the consequences arising from its failure to handover the site on time. If all possible, it is beneficial to obtain a binding agreement from the third party concerned so that it can be held responsible for reimbursing the Government any prolongation cost arising from its failure to handover the site on time.

It should be noted that all public fill, being the inert portion of C&D material, shall be disposed of at designated public filling facilities and all C&D waste at designated landfills. Details of the trip-ticket system for disposal of construction and demolition materials are given in DEVB TCW No. 6/2010 (for contracts for which tenders are invited on or after 1 November 2010). Confirmation from the Public Fill Committee and/or the Director of Environmental Protection as appropriate for the disposal arrangement is required.

3.4 LEGAL AND ADMINISTRATIVE PROCEDURES

All legal and administrative procedures should have been completed to a stage where all necessary approvals and agreements have been obtained before inviting tenders. Reference should be made to Chapter 3 “Land Matters” for the relevant procedures.

3.5 TENDER DOCUMENTS

All tender documents must be completed prior to calling for tenders.

It should be the aim to have all designs and drawings, including structural designs and details, and Bills of Quantities completed and checked before tenders are invited, except for projects where designs by tenderers will be required. Where exceptional reasons prevent this aim being achieved, e.g. the allowable time for design is unusually short as in emergency works, every effort should be made to complete all principal designs and drawings and as much detail as possible before tenders are invited. The potential risk to Government in terms of subsequent contractual claims of not having the design fully completed and not having sufficient detailed drawings at the tender stage must be carefully evaluated. If the possible consequence is considered serious, it must be drawn to the attention of the relevant officer of D2 rank or above and his consent obtained before proceeding further with invitation of tenders. In any event, no tender should be invited without sufficient drawings to show to tenderers clearly the works involved.

For multi-contract projects, those parts of tender documents delineating the split of the works, particularly the drawings and bills of quantities, should be carefully checked to ensure consistency and that there is no omission or duplication of works at the interface.

All non-standard components of the tender documents, i.e. GCT, SCT, Form of Tender, SCC, PS, PP and BQ etc., for contracts estimated to exceed \$500 million (Ref.: SDEV's memo ref. () in DEVB(W) 510/30/01 dated 29.3.2019) in value must be submitted via the Contract Adviser to the LAD(W) of DEVB or TLB for vetting (see SPR 345(d)). Recommendations and amendments made by the LAD(W) of DEVB or TLB should be incorporated into the documents before calling for tenders.

The formula to be entered into the Appendix to the Form of Tender for determining the rate of liquidated damages should be reviewed immediately before tender invitation, with reference to the latest available information.

According to SPR 347, departments should not disclose the estimated contract value to the tenderers. If, however, the estimated contract value has been disclosed to the public, departments should, in all fairness, inform the tenderers of the estimated contract value.

3.6 INTERFACING AND HANDOVER OF LAND

Interfacing with other projects and programmes for handover of any land to other parties during or at the end of the contract period (see Para. 5.1 of Chapter 3) should be agreed with all the relevant parties before the completion of the tender documents. The communications with organizations outside government, consultants and other government departments, including interfacing arrangement and handover dates, should be recorded in writing. The tender documents should set out clearly the obligations of the contractor, the extent of the works or areas affected, and the handover dates.

3.7 CONTRACTS ESTIMATED TO EXCEED 5,000,000 SPECIAL DRAWING RIGHTS

Hong Kong was acceded to the WTO GPA on 20 May 1997. For construction contracts of estimated tender sum made at the time of gazette, which includes all provisional sums, prime cost sums and contingency allowed in the contract, exceeding the threshold of 5,000,000 SDR, there are a few additional tendering procedures for compliance with the WTO GPA requirements. (Ref.: DEVB TCW No. 2/2014 and FC No. 2/2014). The Special Drawing Rights of the International Monetary Fund is based on a basket of currencies. The threshold is recalculated at intervals of two years on the basis of the average of the daily HK\$/SDR exchange rates and shall thereafter be effective for the following two calendar years. Departments will be notified of any revision in the equivalent HK\$ threshold values. (Ref.: WTO Agreement on Government Procurement Hong Kong Dollar Thresholds - <https://fb.host.cgo.hksarg/spr/memos.htm>)

Most of the information required under the WTO GPA is already provided in the tender documentation under the current practice, but additional information regarding the criteria for awarding the contract and the procedure for opening tenders, as promulgated in DEVB TCW No. 2/2014, must also be given in the Notes to Tenderers. If any other special criteria for awarding the contract are to be adopted, prior approval has to be obtained from relevant tender board.

Departments should not sub-divide contracts merely to avoid the application of the WTO GPA.

Joint ventures satisfying the conditions laid down in ETWB TCW No. 50/2002 and SETW's memos ref. (01656-01-03) in ETWB(W) 511/34/01 dated 4.8.2006 and ref. (019JP-01-4) in ETWB(W) 511/34/01 dated 2.11.2006 and ref. (02VWV-01-01) in DEVB(W) 510/83/05 dated 24.1.2017 should always be permitted to tender for contracts, which are covered by the provisions of the WTO GPA. For contracts not covered by the WTO GPA, departments may decide whether or not to allow joint ventures to tender.

3.8 LANGUAGES TO BE USED FOR TENDER SUBMISSIONS

Article 9 of the Basic Law stipulates that “in addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature, and judiciary of the Hong Kong Special Administrative Region”. It is therefore inappropriate to state in the tender notices and tender documents that tenders should be submitted in English.

3.9 MINIMUM WAGE REQUIREMENTS

The former S for Tsy in his memo ref. (6) in FT 53/88/2 dated 28.2.2000 announces that departments should not stipulate minimum wage requirements in their tender exercises. If departments would like to secure quality services, more effective means should be used, e.g. by specifying in detail the qualifications, experience, training and skills required of the personnel concerned; requesting tenderers to provide references from their previous clients; or using a marking scheme for tender evaluation. Nevertheless, if a department really considers it essential to stipulate minimum wage requirements in a particular tender exercise, it should make a submission with full justifications to the Central Tender Board for prior approval (i.e. before tendering). This will prevent the need to cancel the tender exercise if the Board is not satisfied with the justifications provided.

3.10 NOT USED

3.11 MAXIMUM NUMBER OF CONTRACTS TO BE UNDERTAKEN BY THE SAME CONTRACTOR

There are occasions when procuring bureaux/departments invite tenders for more than one contract in a tender exercise and impose a restriction on the maximum number of contracts each tenderer may secure. Some procuring bureaux/departments have also imposed a restriction on the maximum number of a particular type of contracts (which may be tendered out at one go in the same tender exercise or separately in different tender exercises) that a contractor can undertake simultaneously. SFST in his memo ref. FT 53/88 Pt. 3 dated 18.11.2004 required Controlling Officers to revisit the need and justification for setting such a restriction. In particular, for tendering of contracts covered by WTO GPA, the procuring bureaux/departments should ensure that such restriction is legally in order and seek legal advice when necessary if they wish to impose such a restriction.

3.12 CONTROL OF OMITTED ITEMS AND SUBSTANTIAL CHANGES IN QUANTITIES

To avoid the occurrence of omitted items and substantial changes in quantities during construction, the following quality assurance procedures should be adopted:-

- (a) In general, the Standard Method of Measurement (SMM) should be followed in the preparation of the BQ. If it is necessary to amend the method of measurement, a Particular Preamble (PP) to that effect should be prepared and

included in the BQ in accordance with Rule 10 in Part III of the SMM. Prior approval for the incorporation of the PP (for any method of measurement which deviates from the SMM), as well as any drawings clarifying or defining the method of measurement, should be obtained from an officer at D1 rank or above administering the contract according to Section 7.1 of Chapter 5. Such request and approval must be properly minuted and documented in the project file for future reference. Besides, the project officer should confirm such modified method of measurement in writing with the officers responsible for the preparation of the BQ, in case the PP and the BQ are prepared by different officers. Close liaison between the design team and the taking-off team should be maintained to ensure mutual understanding of the documents and any changes made to the SMM.

- (b) A pre-tender cross-checking procedure should be introduced in the preparation of BQ. An officer in the rank of engineer, quantity surveyor, senior engineer, senior quantity surveyor or other equivalent professional ranks, not being the officer who actually prepared the quantities, should make a bulk checking on the quantities of the cost-significant items (items which carry significant implication on contract expenditure) in the BQ against the tender drawings/specifications, or against the quantity of other related items (i.e. items with quantities comparable to or bearing a well recognized ratio to the quantities of the items being checked) to identify possible omitted items and problems arising out of substantial changes in quantities. Examples of 'bulk checking' are (i) volume of excavation against volume of soil disposal and deposition; (ii) area of formwork wall against area of wall tiles; and (iii) number of moving of piling rig against the total number of piles shown in the drawings, etc. When drawing up a list of the cost-significant items, the officer concerned should take into consideration the nature and size of the works, the value of the items and the likelihood of future changes to the relevant items. Sufficient time should be allowed to conduct the bulk checking. Any mistake/problem identified in the checking process should be rectified before the issue of tender documents.
- (c) The above procedures have been prepared mainly for those projects administered by in-house project team. For those projects administered by Consultants, the Consultants shall be required to adopt similar procedures to ensure the quality of BQ and PP and submit their proposed procedures to the Director's Representative for agreement. Besides, if resources permit, project office should conduct spot-checking on the quantities of some selected cost significant items after the BQ has been prepared by the Consultants. Such spot-checking conducted by the project office should be properly documented.
- (d) Apart from the above, an officer of the project office at a rank not lower than D1 should chair a meeting to vet the BQ and PP prepared and to ensure all the checking and cross-checking procedures have been duly completed and documented. For those projects administered by the Consultants, the Consultants shall assign one of their senior managers to attend the meeting.

No tender invitation should be carried out without undergoing the above procedures. Similar review and approval procedures should also be adopted for any subsequent changes made by tender addenda, subject to the need for a formal meeting required in (d) above to be decided by the chairman.

4. TENDERING

4.1 NORMAL TENDERING

4.1.1 Eligible Tenderers

(Ref.: SDEV's memo ref. () in DEVB(W) 510/33/02 dated 31.8.2020 and SDEV's memo ref. () in DEVB(PS) 108/34 dated 15.1.2021)

In selective tendering, a tender will not be considered unless the tenderer has met certain qualification requirements, e.g. is on a particular List of Approved Contractors and not being suspended from tendering, by the date set for the close of tender, or if this has been extended, the extended date. (see Contractor Management Handbook for details.) The eligibility of tenderers can be broadly classified as:

- (a) For works generally

Eligible tenderers are contractors in the appropriate categories and groups of the List of Approved Contractors for Public Works. Eligibility of contractors on the Approved List to tender for works is as summarized in the following table (For details, please refer to Sub-sections 2.2, 2.5 and Section 7 of Contractor Management Handbook).

Tendered Sum	Eligible Contractors	
	Category	Group
Up to \$ 150M	Chosen according to the predominant nature of the works involved (may be more than one, see below)	Group A, B
Above \$ 150M and up to \$ 400M		Group B
Above \$ 400M		Group C

The choice of groups and categories of contractors to be invited to tender for contracts is normally based on the value of the contract and the predominant nature of the work as set out in the above table. More careful consideration is required when different types of work are involved, particularly when there are small (in financial terms) elements of a specialist nature. In deciding the groups/categories of contractors to be invited to tender, the aim should be to limit eligibility to contractors who have the necessary experience and capability (as demonstrated by inclusion in the appropriate groups/categories), but at the same time including a sufficient number of tenderers to ensure competition. Tender invitations extended only to contractors who are included in more than one category should be rare, but the nature of works in some contracts may require this treatment. The appropriate officer of D2 rank or above should be consulted if in doubt.

The following matters regarding the eligibility of contractors to submit tenders have to be noted/checked:

- (i) A contractor who is suspended under the provisions of Para. 5.2 to 5.8 and 5.13 of Contractor Management Handbook is allowed to collect tender documents and to tender. The tender will be considered provided that the suspension is lifted by date set for the close of tender, or if this has been extended, the extended date.
 - (ii) Parent and subsidiary companies included in the same category are not permitted to individually submit a tender for a particular contract. Only one tender submission is permitted from either one of them. Failure to observe this requirement will render the tenders submitted null and void.
 - (iii) The requirements on contractor to employ technician apprentices, ex-CITA trainee craftsmen and Building and Civil Engineering Graduates as prescribed in ETWB TCW No. 12/2003.
 - (iv) The requirements on contractor to employ the minimum number of registered skilled workers and registered semi-skilled workers as prescribed in WBTC No. 4/2017.
 - (v) Subject to Para. 5 of ETWB TCW No. 50/2002 and SETW's memos ref. (01656-01-03) in ETWB(W) 511/34/01 dated 4.8.2006 and ref. (019JP-01-4) in ETWB(W) 511/34/01 dated 2.11.2006 and SDEV's memo ref. (02VWV-01-1) in DEVB(W) 510/83/05 dated 24.1.2017, departments should check whether or not joint ventures are allowed to tender for contracts that are not covered by the provisions of the WTO GPA. Joint ventures should always be permitted to tender for all contracts covered by WTO GPA. A sample Joint Venture (JV) Proforma has been drawn up to facilitate tenderers to provide the proposed value of works in submitting their tenders in the form of a joint venture prescribed in SDEV's memo ref. (03487-01-1) in DEVB(W) 510/83/05 dated 31.12.2019.
 - (vi) The requirements on contractor to obtain quality management system certification as prescribed in WBTC Nos. 13/2001 and 13/2001A.
 - (vii) The regulatory actions against contractor convicted of site safety offences or environmental offences or incurring serious incidents on site as prescribed in DEVB TCW No. 3/2009 and SDEV's memo ref. () in DEVB(W) 510/10/01 dated 11.2.2014 and SDEV's memo ref. () in DEVB(W) 516/71/01 dated 17.5.2017.
 - (viii) The regulatory actions against contractor repeatedly convicted of Section 27 of the Public Health and Municipal Services Ordinance (Cap. 132) regarding mosquito breeding offences as prescribed in ETWB TCW Nos. 22/2003 and 22/2003A and SDEV's memo ref. () in DEVB(W) 510/10/01 dated 11.2.2014.
 - (ix) The regulatory actions against contractor convicted of contraventions of the Employment Ordinance (Cap. 57) as prescribed in the Contractor Management Handbook.
- (b) For specialist works and supply of materials

Where the specialist works or materials supply forms a main contract and where an applicable category exists in the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, the eligible tenderers are contractors/suppliers in the appropriate category (and group) of the said List. (see Section 3 of Contractor Management Handbook)

Eligibility of contractors/suppliers in different categories and groups of the said List to tender for works is given in Appendix 3A of Contractor Management Handbook.

Where the specialist works or materials supply forms only a part of a main contract, the contract conditions should require the main contractor to employ a sub-contractor who is on the List of Approved Suppliers of Materials and Specialist Contractors for Public Works in the appropriate category (and group) to carry out such part of the work if:

- (i) the specialist works or materials supply is of significant value or constitutes a substantial part of the main contract, e.g. a contract with substantial structural steelwork, or
- (ii) the specialist works or materials supply can only be satisfactorily undertaken by an experienced specialist contractor, e.g. supply and installation of bridge bearings.

In such cases, the main contractor shall enter into written sub-contracts with the specialist contractor of the approved list for the execution of the respective part of the Works. Appropriate SCC shall be incorporated into the contract document on sub-contracting. Standard SCCs in this respect are given in the Library of Standard Special Conditions of Contract maintained by DEVB. As promulgated in memo ref. WB(W) 209/32/110 dated 2.5.2001 from the former S for W, it is no longer required to ask tenderers to submit with their tenders a letter of intent from specialist subcontractors.

- (c) For procurement covered by WTO GPA

For procurement covered by WTO GPA, the qualification criteria for selecting contractors/suppliers are limited to those which are essential to ensure the contractors'/suppliers' ability to provide the required services or articles. Departments shall provide open, fair, consistent and non-discriminatory treatment to products, services and contractors irrespective of their country of origin. Local and overseas contractors and suppliers should all be treated on an equal footing. Please refer to DEVB TCW No. 2/2014 for details.

- (d) For Term Contracts

Eligibility to tender for term contracts shall be determined in accordance with Sub-section 7.3 of Contractor Management Handbook.

There are restrictions on the award of some maintenance and minor works term contracts and the restrictions are set out at the Appendix of WBTC No. 24/99.

Relevant restrictions should be specified in the tender documents so that all tenderers are made aware of the restrictions.

- (e) Interim measures for broadening the span of groups of contractors to be invited to tender

To support small and medium-sized contractors (SME contractors) in participating in public works projects, SDEV promulgates the following interim measures for broadening the span of groups of contractors to be invited to tender stipulated in SDEV's memo ref. () in DEVB(W) 510/33/02 dated 08.08.2022.

- (i) Inviting lower group contractors to submit tenders for a higher group of capital contracts with pre-tender estimate marginally exceeding the tender limit set for the lower group contractors, unless otherwise with the consent from SDEV;
- (ii) Splitting specialist works from the main works and inviting separate contract(s) for such specialist works where possible with due regard to project-specific technical requirements.

Details of the measures, including the associated tender provisions, are given in the guide at Annex of the memo above. The measures shall apply to contracts for which tenders will be invited on or after 29 August 2022.

The measures will be implemented until further notice.

4.1.2 Tender Invitation

Prior to invitation to tender, the procuring department shall provide the sum allowed in Approved Project Estimate/ Estimated Cost of the Project for the contract to Project Strategy and Governance Office (PSGO), DEVB (Attn: CAS(W)1) using the template in Appendix 6.35 (ref. SDEV's memo ref () in DEVB(PSGO) 38/05 dated 27.06.2022). In addition, the SDEV should be alerted through Press Secretary to SDEV by the works department on the issue of important works tenders, especially those related to Chief Executive's initiatives in the policy address, via the departmental headquarters. Invitation to tender is normally made in the form of Gazette Notice and/or posting a tender notice on the Internet. Depending on the value of a contract, the procedures for tender invitation can be broadly classified as follows:

- (a) For works contracts not exceeding \$55 million

Under the simplified tendering arrangements promulgated in FC No. 3/2009, tender invitations for all works contracts not exceeding \$55 million each need only be published on the Internet. Controlling Officers may decide whether to also publish these in the Gazette, local press and journals, and whether to allow the full tender documents to be downloaded from the Internet. The date for tender invitation can be any day except those falling on public holidays. However, the tender closing date has to be a Friday or some other date announced by the relevant tender boards as all tenders shall still be submitted to the relevant tender boards.

Departments should devise their internal procedures for obtaining approval to proceed with tender invitation and for posting of tender notice on the Internet. The routing sheet, check list and estimates summary shown in Appendix 6.1 can be used for submitting supporting documents by division/regional office through office and departmental headquarters. Departments should post the tender notice (and subsequent corrigendum to such notice, where applicable) on the “tender page” of their Internet homepage. A sample of the tender notice to be published on the Internet is given in Appendix 6.2.

(b) For works contracts covered by the WTO GPA

All works contracts that fall within the provision of WTO GPA shall follow the procedures for tender invitation stipulated in SPR 340, DEVB TCW No. 2/2014, SFST’s memo ref. (50) in L/M No. (3) to S6/1/21 dated 9.9.2010, SDEV’s memo ref. DEVB(W) 546/70/01 dated 25.11.2010 and SDEV’s memo ref. () in DEVB(PS) 108/34 dated 15.1.2021. For tenders to be invited from contractors on the List of Approved Contractors for Public Works and/or the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, departments shall publish their tender invitations and notices of prequalification of tenderers in the Government Gazette and their Home Pages on the Internet only. For selective tendering using the Approved Lists, departments shall notify each contractor on the relevant Approved Lists the tender invitation by post or email on the same day of the first publication of the Gazette Tender Notice. Where tenders will be invited also from contractors not on the above lists, such as in open tendering, departments may publish tender notices also in local press. Departments may, in addition, publish invitations in selected journals, send invitation letters to qualified contractors and notify consulates and trade commissions in Hong Kong of such tender invitations, if considered appropriate. A Gazette Notice for invitation to tender is normally published in two consecutive issues of the Gazette but if it is considered desirable to publish a particular notice in more than two issues, the originating department should recommend accordingly. Publication day is a Friday unless that Friday is a public holiday. If tender notices are considered necessary to be published in local press, they shall be advertised in at least one English and one Chinese local press, and departments should make advertising arrangements with the Director of Information Services direct.

To publish tender notice in the Gazette, the procedures provided in General Regulations 103 – 105 shall be followed. Briefly, three copies of the draft Gazette Notice, in both Chinese and English, should be provided to the Official Languages Division, CSB (Attn: COLO(Unit 3)) by 3:30 p.m. on the Tuesday preceding the publication date, which is normally Friday. The Official Languages Division, CSB will, after vetting the Chinese translation, forward the notice to the Assistant Clerk to the Executive Council, who acts as the Editor. The department should also send an additional copy of the Gazette Notice directly to the D of GL not later than 2:30 p.m. on the Tuesday preceding the publication date.

When Friday is a holiday, the Gazette appears on the nearest previous working day. The respective time limits for submissions stated in the above paragraph are then similarly adjusted. When holidays occur on days which do not affect

the publication date of the Gazette, an adjustment to the time limits for submission should nevertheless be made to allow the usual number of full working days. Should any adjustment result in a time limit for submission falling on a Sunday or Saturday then the actual closing time will be 2:30 p.m. on the previous Friday.

A copy of the tender invitation (and subsequent corrigendum to the notice) should be sent to the relevant tender board, where appropriate, for tender collection and opening arrangements to be made.

Tender notice should be posted on the “tender page” of the department’s Internet homepage on the same day when the Gazette Notice is published. The notice should remain on the “tender page” until the respective closing date of the tender exercise. Departments are to ensure that the information contained in the electronic notice shall tally with that contained in the Gazette Notice. A sample of the tender notice to be published on the Internet is given in Appendix 6.2.

The routing sheet for submission of supporting documents, the memo requesting for publication of Gazette Notice, a specimen Gazette Tender Notice and specimen Invitation Letter for selective tendering are given in Appendices 6.1, 6.3, 6.4A and 6.4B respectively. Departments shall ensure that all information required by the WTO GPA is included in the tender invitations.

Depending on the sensitivity of a project and the degree of public/media interest, a press release in layman terms for advertising on the local and/or international press may also be issued concurrently with the Gazette Notice. It is advisable to contact and discuss with SPO of DEVB on the necessity of a press release well in advance of gazette notification in order to save time and effort. If a press release is required, it should include at least one English and one Chinese newspaper and should be arranged with SPO or the I&PR of Transport Department (for HyD projects), by the submission of a draft press release (Appendix 6.5) with the aforesaid documents.

Guidelines for the preparation of documents for Gazette notification and draft press release are given in Appendix 6.6. For preparation of the gazette notice for invitation to tender to be published in the Gazette, please refer to memo from D of GL dated 12 August 2005 (ref. (38) in PD/12/4). A copy of the guidelines on the format for government notices in the main Gazette (which is the annex to this memo) is attached as an annex to Appendix 6.6.

Limited tendering (i.e. single or restricted tendering) procedures should only be used in circumstances detailed in DEVB TCW No. 2/2014. Departments making application to PSTsy for initiation of single or restricted tendering should substantiate their request with full justifications. Departments shall send tender invitations by letter to contractors/suppliers as approved by the PSTsy.

- (c) For works contracts exceeding \$55 million but not covered by the WTO GPA

Where tenders will be invited from contractors on the List of Approved Contractors for Public Works and/or the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, departments shall have their tender notices published in the Government Gazette and on the Internet.

As promulgated in the former SETW's memo ref. ETWB(PS) 111/9 dated 16.1.2003, if notices of tender/pre-qualification of tender are to be disseminated to the Mainland authorities/enterprises through the BJO, departments should send the tender notices to the Trade Officer of the BJO (Tel.: 86-10-6518 6318 Ext 21 & Fax.: 86-10-6518 6322) through an assigned departmental co-coordinator. Departments should also state the target group of distribution, if possible. A copy of the correspondence with the BJO should be copied to DEVB or TLB for reference.

4.1.3 Issue of Tender Documents

Tender documents must be ready for collection on the first publication day of the tender invitation.

Pre-addressed envelopes or labels for the return of tenders should, as far as possible, be provided to tenderers.

Drawings are normally bound separately and they should be returned to the issuing office after submission of the tender.

Except for procurements covered by WTO GPA, only contractors in the appropriate group and category of the Lists should be allowed to collect tender documents. Tender documents may be issued, in accordance with the principles and procedures set out in Para. 4.1.1, to a probationary contractor who is holding the allowable maximum number or total value of contracts, or to a contractor who is not in the appropriate group stipulated for the tender but who has applied for inclusion in or upgrading to this group. Please refer to para. 7.2.5 and 7.2.6 of Contractor Management Handbook for details.

For procurement covered by WTO GPA, tender documents should continue to be collected by contractors according to current practice but shall be forwarded to interested contractors by courier, if requested in writing, in the case of both open and selective tendering. Such requests shall be answered promptly. Departments are empowered to recover the full delivery cost from tenderers for example by crediting their departmental general revenue accounts, by requesting contractors to provide their account numbers with the courier so that the delivery cost can be charged direct to the contractor's account, or by other means.

A contractor who is suspended from tendering (voluntary or otherwise) is still allowed to collect tender documents but his tender will not be considered unless the suspension is lifted by the date set for the close of tender, or if this has been extended, the extended date. More detailed guidelines are given in Para. 4.1.1(a) (i) to (ix) which should be followed.

Contractors on the approved lists may be promoted, downgraded or deleted from the Lists or suspended from tendering at any time. It is essential therefore that up-to-date records of contractors' status be referred to prior to the issue of tender documents to contractors.

An EDP which comprises a collection of electronic files containing the contents of a set of tender documents should be disseminated free of charge to eligible tenderers in

accordance with the provisions stipulated in Appendix 6.34, in addition to the hard copy set. Request for additional electronic copies of tender drawings should be charged in accordance with Section 8.4 of PAH Chapter 5. Request for additional electronic copies of other types of tender documents should be charged at the rates prescribed from time to time by the relevant authorities. An EDP should be issued with the attachment of a set of licence conditions given in Annex 1 of Appendix 6.34, duly completed by the department concerned in accordance with the footnotes therein. The hard copy and the EDP are each a complete set of the tender documents, bearing equal status.

In addition to the EDP issued to tenderers, the same EDP should also be distributed to ASP using the issue notice stipulated in Schedule 2 to Annex 3 of Appendix 6.34. It should be issued with the attachment of a set of licence conditions given in Annex 2 of Appendix 6.34, duly completed by the department concerned in accordance with the footnotes therein. Hard copies of the tender documents shall not be issued to ASP. DEVB or TLB will announce from time to time the current list of ASP (see DEVB website for projects under DEVB).

4.2 SINGLE AND RESTRICTED TENDERING

Please refer to para. 14, 26 and 27 of DEVB TCW No. 2/2014 and SPR 325 for details.

Requests for single or restricted tendering should be signed or endorsed by an officer at directorate level. Subject to the prior approval of PSTsy upon the recommendation of the department, invitation letter can be sent to the short-listed contractors/suppliers for tendering. Departments should advise the tenderers to submit their tenders in the same manner as open and selective tender procedures. Tenderers should not be informed that tenders are being invited on a single or restricted basis. A sample letter of invitation to tender is shown in Appendix 6.7. It should not include any information that may prejudice Government's interest in the tender. EDP should be distributed to the tenderers and the ASP in the same manner as described in Para. 4.1.3.

Department shall keep a report in writing on each contract awarded under the single or restricted tendering procedures. Such reports shall contain the name of the procuring entity, value and kind of goods or services procured, country of origin and a statement of the conditions which necessitate the use of single or restricted tendering.

4.3 PREQUALIFIED TENDERING

Reference should be made to DEVB TCW No. 5/2015 regarding the guidelines on prequalification of tenderers for all public works contracts. Departments should consider if the use of a marking scheme under DEVB TCW Nos. 4/2014 & 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024 should be adopted in lieu of prequalification.

Departments should note that the purpose of prequalification is to identify those contractors who are capable of undertaking the contract. It is not necessary to ask applicants to commit themselves to any resources proposal, method of construction, engagement of sub-contractors etc. at the prequalification stage. Normally, contracts warranting prequalification of tenderers are all subject to the use of a marking scheme in tender evaluation similar to the one promulgated under DEVB TCW Nos. 4/2014, 4/2014A and SDEV's memo ref. () in

DEVB(W) 546/84/01 dated ~~9.7.2021~~ ~~10.11.2023~~ ~~Amd No. 2/2024~~. However, for tender evaluation of tenders submitted by contractors on the prequalified list, it is generally not required to reassess the experience criteria under Section 1 of the marking scheme since this has already been assessed in the prequalification process. At the contract tender stage tenderers will be asked to submit technical and resource proposals and these proposals will be binding and form part of the contract.

Detailed guidelines for invitation, qualification requirements, preparation of prequalification documents, analysis of submission, selection of tenderers and other considerations for prequalified tendering are given in DEVB TCW No. 5/2015, and SPR 330. As stipulated in paragraph 41(a) of DEVB TCW No. 5/2015, it is not required to check applicants' financial capability at the prequalification stage. Changes to the composition of a prequalified joint venture contractor may be permitted under the conditions stipulated in paragraphs 25 to 32 of DEVB TCW No. 5/2015.

References should also be made to FC No. 3/2020 regarding initiating works-related tendering and prequalification exercises for works tenders before funding is secured.

4.3.1 Conflict of Interest

In preparing the prequalification report for submission to CTB, the requirements as stipulated in paragraph 52 of DEVB TCW No. 5/2015 and Appendix III(D) of SPRs should be followed. Reference should also be made to Appendix I(A) of the SPRs for the standard form for declaration of no conflict of interest by ~~public~~ ~~Amd No. 1/2024~~ officers involved in the preparation of prequalification documents and in the prequalification exercise, and to Appendix 6.37 for the standard form for declaration of no conflict of interest by consultants' staff ~~Amd No. 1/2024~~. All officers should each complete one form and officer submitting the report should confirm in accordance with Paragraph H of Appendix III(D) of the SPRs that all officers involved in the preparation of prequalification documents and in the prequalification exercise have already declared their interest and, where conflicts of interest (actual, potential or perceived) have been identified, appropriate remedial action has been taken. Sample confirmation statements on declaration of no conflict of interest are as follows:

- (a) Prequalification reports prepared by Government officers
"I confirm that all officers involved in the preparation of prequalification documents and in the prequalification exercise have declared that there is no actual, potential or perceived conflict of interest for them to take part in the process in accordance with Stores and Procurement Regulation 186."
- (b) Prequalification reports prepared by the project consultants
"We, (name of the project consultant), have declared our compliance with the relevant terms and conditions of the Consultancy Agreement on conflict of interest and confirmed that there was no actual, potential or perceived conflict of interest in connection with our services in the preparation of prequalification documents and in the prequalification exercise."

All declarations of interest in accordance with SPR 186 should be kept in file for record. The declarations of no conflict of interest by consultants' staff by the standard form in Appendix 6.37 shall be appended to the prequalification reports for checking and acceptance by project teams. ~~Amd No. 1/2024~~

4.3.2 Representations at Pre-Contract Stage

Departments should always practise with great care when issuing information to any prospective contractor in the pre-contract stage. It should be borne in mind that such information, if issued, could amount to a pre-contract representation or even become a term of the contract thereby causing significant contractual implications if the information turns out to be incorrect ^{Note 1}. Whilst it is prudent to seek legal advice whenever doubts arise, project officers shall also follow the guidelines stated below (Ref.: SDEV's memo ref. (01QXA-01-12) in DEVB(W) 546/70/02 dated 23.4.2008):

(a) Prequalification stage

Departments shall set out the scope of the contract, the essential requirements of the contract and the qualification requirements in the prequalification document to be issued to prospective applicants to assist them in preparing submissions seeking for prequalification. Reference shall be made to DEVB TCW No. 5/2015.

Any other "side information", e.g. market conditions, source and/or availability of materials and commentaries on suitability of construction methods or current legal requirements, is rarely necessary or appropriate for inclusion in or issue with the prequalification document. Project officers should be conscious of the potentially major contractual implications that might result from incorrect information issued and allegedly having been relied upon by the contractor. There is also the risk that the originally correct information could become incorrect with the lapse of time or changes in circumstances after the information is issued.

Where the circumstances genuinely require the issue of specific side information to prospective applicants in the prequalification stage, consent from the relevant officer at D2 rank or above shall be obtained. Before issuing any such information to prospective applicants, the department shall also consult LAD(W) with regard to drafting any special disclaimer clauses for inclusion in the prequalification document and/or the Special Conditions of Contract which may be necessary having regard to the nature of the information and/or particular circumstances of the procurement so as to safeguard the Government's interest.

(b) Subsequent doubt over the truthfulness of any information issued under (a)

Where a piece of information has been issued under (a) above but its truthfulness is subsequently found to be questionable due to change in circumstances or other reason(s), LAD(W) should be consulted as to the appropriate action to be taken (e.g. withdrawal of the information with or without extension of the date set for submission of prequalification applications or cancellation of the prequalification exercise) notwithstanding that a disclaimer may have already been incorporated in the prequalification document.

Note 1: Under the common law and the Misrepresentation Ordinance (Cap. 284), a misrepresentation is a representation which does not accord with the true facts. The

representee who has entered into a contract in reliance on such representation may sue for rescission (i.e. cancellation and putting the parties back to where they were before the contract was made) and/or damages. Where a misrepresentation has become a term of the contract, there is a right to terminate the contract (if the term is in the nature of a condition) and sue for damages for breach of contract as well as a right to sue for rescission (see section 2 of the Misrepresentation Ordinance).

5. ACTION DURING TENDER PERIOD

5.1 PRE-TENDER MEETING

Pre-tender meetings should not be held if the existing procedures for communication are sufficient to obtain competitive tenders. If a pre-tender meeting is considered necessary, it should be arranged in the week following the last publication of the tender invitation, or in the case of restricted tendering at a suitable time before the date set for receipt of tenders.

At the pre-tender meeting, Contractors should be allowed to visit the site if possible and to raise any queries they may have. Contractors should however be informed at the beginning of the meeting that any oral information given at the meeting should not be taken as varying the information in the tender documents unless subsequently confirmed in writing. Important points raised should be covered in the form of questions and answers in a circulation letter to be sent to all tenderers, irrespective of whether they attended the meeting or not. Minutes are not required for the pre-tender meeting.

Further details for pre-tender meeting are given in WBTC No. 4/92.

5.2 TENDER ADDENDA

(Subsumed from WBTC No. 6/95 and ETWB TCW No. 6/95B)

If amendments to tender documents are found necessary after they have been issued to tenderers, such amendments shall be prepared and processed in accordance with the following guidelines.

(a) Preparation of addenda

The following principles shall be observed in preparing amendments:

- (i) The Conditions of Tender shall only be amended by means of Special Conditions of Tender,
- (ii) The General Conditions of Contract shall only be amended by means of Special Conditions of Contract,
- (iii) The General Specification shall usually be amended by means of a Particular Specification. In exceptional cases, for example, with alternative designs, amendments may be made by a letter,
- (iv) The Standard Method of Measurement (SMM) shall only be amended by means of appropriate preambles to the Bills of Quantities (BQ), by way of replacement or additional clauses, as applicable, in the same format as that given in the SMM,
- (v) Standard documents such as the General Specification and the SMM are updated/amended from time to time. The amendments are sometimes done by way of corrigenda. These amendments/corrigenda are usually available from the internet.

Where these are available, the tenderers' attention should be drawn to the specific websites. Otherwise, the amendments and corrigenda shall be incorporated in full in appropriate places in the tender documents. For example, they could be included as an appendix to the standard documents where these documents are included or where only references to the documents are made as an appendix to such references.

- (vi) Should there be changes to the scope of the Works before the tender closing date which may affect the rate of liquidated damages or the associated special damages, the formula that have been entered into the Appendix to the Form of Tender for the determination of liquidated damages should be adjusted by means of a tender addendum.

(b) Method of making amendments

Care must be taken to ensure that any amendments to the documents do actually form part of the contract and also have the requisite effect on it. Tender addenda can be issued as:

- (i) A replacement or additional page marked "Addendum No....." which either replaces the original page or serves to amplify/amend the original document, or
- (ii) An extra document or a letter amplifying or amending the original document.

The first method is the legally preferred way of making amendments and should be used whenever possible. Where it is not practical to provide a replacement/additional page, the amendment may be made by means of an extra document. Such an amendment must also be assigned a tender addendum number and be dealt with similarly.

(c) Processing amendments

The tender addenda should be bound separately to a letter for:

- (i) Issuing to all tenderers who have collected tender documents, and
- (ii) Attaching to all copies of tender documents which have not been collected at the time of issuing the tender addenda (for issue to further tenderers).

The letter (see sample at Appendix 6.8) should provide for:

- (iii) An acknowledgement of receipt by the tenderer,
- (iv) A certification by the tenderer that the addenda have been taken into account, and

- (v) **A tender addenda sheet describing the amendments made. The letter should be signed by the Engineer designate (see Appendix 6.9).**

Copies of all amendments shall be sent to other parties as required for the particular project.

During the tender period, a record of all acknowledgements of receipt returned shall be maintained and clarification shall immediately be sought from those tenderers who have not returned the acknowledgement within the time limit.

The procedures for preparing the EDP for tender addenda are given in Appendix 6.34.

5.3 QUERIES FROM TENDERERS (Ref.: General Circular No. 8/97)

All questions raised at the pre-tender meeting or put forward in writing by tenderers which suggest the existence of errors or ambiguities in the tender documents should be carefully examined and if found justified, a letter attaching the tender addenda should be issued to correct the errors or clarify the ambiguities. (See Para. 5.2(c) for details.)

Procuring department should respond to questions or requests from tenderers in a timely manner. Responses to tenderers' questions should, as a general rule, be made within ten working days. An interim reply should be issued if a substantive reply cannot be made within the above timeframe.

For contracts administered by consultants, the consultants shall seek the procuring department's comments on the responses to tenderers' questions or requests before issuing them to the tenderers. The procuring departments may need to seek further comments from the relevant policy bureaux before replying to the consultants if necessary.

Information essential in enabling a tenderer to submit a conforming tender (e.g. clarifications on the terms, conditions and specifications of tender) should be provided. For fairness and transparency, departments should provide the same information to all potential tenderers known to the departments (or publish on department's website in case of open tender) as soon as possible and in any case before the closing date for receipt of tenders.

5.4 SALE OF PLANS OR DRAWINGS TO TENDERERS

Tenderers may request additional copies of the drawings which are issued with the tender documents, or copies of those drawings which are available for inspection but not issued. There is no objection to a reasonable number of drawings being supplied to each tenderer in such cases but it must be on the basis of purchase by the tenderer at the rates currently charged for the sale of plans to the general public. The question of what is reasonable or unreasonable with regard to a tenderer's request for drawings shall be determined by the division/regional office concerned. Reference can be made to PWD TC No. 11/76.

It should be stressed to tenderers that the copyright of the drawings remains with Government and the drawings must not be used for purposes other than the preparation of the tender concerned.

A tenderer may ask for the supply of additional copies of tender drawings in electronic form for the purpose of preparing his tender. The standard charges and guidelines for the supply of electronic drawings are given in Section 8.4 of PAH Chapter 5. Basically, the following salient points should be noted when issuing electronic drawings to the tenderers:

- (a) the tenderers should be advised in writing and confirm their acceptance that the electronic drawings are not guaranteed to be free from computer viruses and the Employer will not be responsible for any damage arising therefrom;
- (b) the tenderer should be advised in writing and confirm their acceptance that the Employer will not accept any liability arising from any discrepancies between the electronic drawings and the tender drawings in hard copy format; and
- (c) if the electronic drawings contain digital map data supplied by the Lands Department, the tenderer shall be required to provide a duly signed undertaking regarding the conditions in the use of Government digital map data as given in Section 8.4 of PAH Chapter 5.

5.5 AMENDMENTS TO TENDER DESIGNS

No alterations should be made to the basis of designs on which the tender documents have been prepared and tenders invited, except for purposes such as clarification of details or for the acceptance of alternative designs as permitted by the Conditions of Tender.

In the event that exceptional circumstances have arisen such that part or the whole of the tender designs must be altered, appropriate approval should be sought to make the necessary amendments or cancel the tendering exercise with a view to re-tendering. Under SPR 380(e), the decision not to accept any tender in a tender exercise must be made by the relevant tender board. This authority has been delegated to the Controlling Officer for works contracts not exceeding \$30 million each and not subject to WTO GPA. The relevant tender board must still be consulted for the cancellation of tenders costing \$30 million or above each.

5.6 LEGAL VETTING OF SUBSTANTIAL ALTERATION TO TENDER DOCUMENTS

If during the tendering period any substantial alterations are made to the tender documents for contracts estimated to exceed \$500 million (Ref.: SDEV's memo ref. () in DEVB(W) 510/30/01 dated 29.3.2019) in value, then details of the alterations including all correspondence and memoranda relating thereto must be submitted to the LAD(W) of DEVB or TLB for vetting. Time must be allowed to obtain the approval for the alteration to the tender documents before the acceptance of the tender. Any major alteration must be approved by the D of J.

5.7 EXTENSION OF TIME FOR TENDERING

The arrangement for extension of tender closing time due to typhoon, rainstorm, “extreme conditions after super typhoons” announced by the Government and blockage of public access should be as follows:

If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9.00 a.m. and 12.00 noon on Friday, the tender closing time for tenders to be deposited in the tender box as specified in the tender notice (“Specified Tender Box”) will be postponed to 12.00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<https://www.info.gov.hk/gia/general/today.htm>).

The tender period may need to be extended if:

- (a) Tenderers give substantive reasons showing why tenders cannot be properly prepared within the specified period,
- (b) Queries raised by the tenderers require significant time to resolve, or
- (c) The timing or nature of a tender addendum is considered to be disruptive to the pricing of the Bills of Quantities.

In any event, consideration must be given to granting an extension due to any addendum, other than those of a very straightforward nature, issued during the last week of the tender period.

The length of any extension will also depend on the type and timing of the request, queries or addendum.

The justification for and the length of the extension to the tender period must be agreed by the Chief Engineer or Regional Office Head before action is taken.

When the need to extend the tender period and the length of the extension have been agreed, all tenderers who have taken out tender documents and the relevant tender board should be informed initially by telephone, followed by confirmation in writing. A sample letter informing the tenderers and a sample memo informing the tender board of the extension of tender period is given in Appendix 6.10 and 6.11 respectively. For selective tendering governed by WTO GPA, the letter notifying tenderers of the revised time for receipt of tenders shall be issued to all contractors on the relevant Approved Lists (Ref.: SDEV's memo ref. () in DEVB(W) 920/30/01 dated 6.1.2015). Copies of the letter must also be attached to tender documents which have not been collected at the time the tender period is extended.

For tenders requiring gazetting, publication of the gazette notice for extension of tender period should be sent to the Assistant Clerk to the Executive Council through the Official

Languages Division (Attn: COLO/Unit 3) by the submission of the following documents by division/regional office through the office and departmental headquarters:

- (a) Memo requesting publication of Gazette Notice (Appendix 6.12) for extension of tender period, and
- (b) Draft gazette notice (Appendix 6.13) with contents page.

Departments should also ensure that the relevant details on the “tender page” of their Internet homepage are updated accordingly.

5.8 EXTENSION OF TENDER VALIDITY PERIOD

The period for which tenders remain binding is stated in the Form of Tender. After the expiration of this period, a tender cannot be accepted without the written consent of the tenderer to extend the tender validity period. As a matter of principle, an unduly long tender validity period should be avoided as it may jack up the tender price and adversely affect tender response. The tender validity period should normally be set as 90 days from the tender closing date. If a longer validity period is required, the project team should take into account the specific circumstances and set a reasonable period which is not unduly long with justifications recorded in file.

If such an extension is anticipated before tender closing date, a tender addendum should be issued. If such an extension is required after tender closing date but before acceptance of tender, a letter enclosing a standard confirmation letter for reply (see Appendix 6.14) should be written to all tenderers asking for their agreement to extend the tender validity period without changing their original bid (tendered sum). The action should then be recorded in the tender report. If such an extension is required after acceptance of tender, the letter should be written to the successful tenderer asking for agreement to extend the tender validity period without changing the original bid (tendered sum). If the tenderer does not agree to the extension unconditionally, it will be necessary to justify the acceptance of the additional cost and re-submit the case to the appropriate authority for approval. It should be noted that a tenderer’s refusal to extend would render his tender ineligible for acceptance after the expiry of the original tender validity period. On the other hand, a tenderer’s agreement to extend subject to conditions will be considered as a qualified bid and may be rejected.

Tenderers should be reminded that the letter seeking their agreement to an extension of the tender validity period does not signify either an acceptance or a rejection of their tenders, all tenders are still under consideration and Government does not bind itself to accept either the lowest or any other tender.

6. EXAMINATION OF AND REPORT ON TENDERS

This Section sets out the procedures for examination of tenders and submission of tender reports for public works. **These general procedures are also applicable to design and build contracts, subject to any additional requirements stipulated in the Administrative Procedures for Use with the General Conditions of Contract for Design and Build Contracts, which can be found on the DEVB website (under Publications and Press Releases\ Publications\ Standard Contract Documents\ (Subsumed from DEVB TCW No. 8/2014)).** DEVB TCW Nos. 4/2014, 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ **10.11.2023 Amd No. 2/2024** sets out the various methods of tender evaluation in the procurement of all capital works contracts and term contracts (excluding design, build and operate (DBO) contracts) which do not involve prequalification of tenderers.

6.1 CONFIDENTIALITY OF TENDERS (Subsumed from DEVB TCW No. 8/2014)

No unauthorized disclosure of any information and matter concerning tenders is permitted. **From the time tenders are received and opened until the decision is made on the acceptance or otherwise, all oral and written communications regarding the tenders are classified as "RESTRICTED (TENDER)".** **Communications on prequalification and single or restricted tendering, such as a request for authority to conduct a restricted tendering exercise, shall also be so classified.** Care should also be exercised in the subsequent de-restriction of information to ensure that no sensitive matter, e.g. a remark made by the tender board, the disclosure of which may cause embarrassment is placed on an open file.

The authority to open and handle documents classified as "RESTRICTED (TENDER)" is vested in the following officers, hereinafter collectively referred to as the "tender examiner":

- (a) The officer of D2 rank (or above) relevant to the tender;**
- (b) The departmental secretary and accountant;**
- (c) The officer in charge of the confidential registry;**
- (d) The consultants or the officer nominated by the D2 officer referred to above to deal with the processing of tenders; and**
- (e) Other officers authorized by the Head of Department or tender board.**

The extent to which these officers should have access to the related materials shall be on a need-to-know basis. Officers entrusted with the checking of tenders shall ensure that the contents are treated in the strictest confidence. Typing, marking etc. of all correspondence, documents of and reports on tenders must be carried out in such a manner that no lapse of security is anticipated. The project engineer (or consulting engineer if appropriate) shall be responsible for the safe keeping and checking of the tenders but detailed checking may be delegated to assistant engineers or quantity survey officers who must be made

fully aware of the confidential nature of the documents.

The transfer of documents marked “RESTRICTED (TENDER)” shall be by appropriate secure methods to prevent unauthorized access to the tender information. Envelopes containing “RESTRICTED (TENDER)” materials should be sealed using a red wafer seal and the originating officer should sign across the seal. Correspondence, in sealed envelopes, could be dispatched by the normal receiving and dispatching channels.

6.2 OPENING AND LISTING OF TENDERS

Tender opening procedures should commence immediately after closing and upon receipt of tenders. Tenders are to be opened and listed by the tender board concerned.

With reference to SFST's memo ref (71) in TsyB T00/810-1/1/0(C) Pt. 3 dated 27.8.2018, Controlling Officers (“COs”) are required to ensure that for all CTB tenders that will close on or after 30 November 2018, the address of the tender box as stated in the relevant tender notice must be revised as follows:

Government Secretariat Tender Box,
Lobby of the Public Entrance on the Ground Floor,
East Wing, Central Government Offices,
2 Tim Mei Avenue, Tamar, Hong Kong.

After tenders have been opened and authenticated by the tender opening team, one copy of the duplicates of the tenders received will be kept by the relevant tender board. The originals and the remaining duplicates of the tenders will be sent to the procuring department for assessment. The tenders should usually be ready for dispatching/collecting on the day after the tender closing date. The procuring department shall inform DEVB (Attn: CAS(W)1) of the prices for the 3 highest combined score tenders within 3 working days after the opening of the tender fees using the template in Appendix 6.36 (ref. SDEV's memo ref. () in DEVB(PSGO) 38/05 dated 27.06.2022.

For works contracts adopting a marking scheme, the tender opening team of the tender board will place the originals of the tender price documents in a sealed envelope. The sealed envelope, together with the technical submissions, should be collected by the procuring department while the duplicates of the tender price documents should be kept by the tender board. **In tender evaluation, departments should not open the envelope containing the tender price documents until the evaluation of the technical submissions has been completed except in some special circumstances where the technical and price submissions are to be assessed by two independent panels concurrently and in such a case, the two independent panels should not exchange any information about the technical or price submissions. (Subsumed from DEVB TCW No. 8/2014)** Additional guidelines on the opening of tenders for contracts adopting a marking scheme approach are given in DEVB TCW No. 4/2014.

Approval of cancellation of tender exercise is not required when no tender is received after close of tender invitation.

6.3 ASSESSMENT PANEL

For contracts adopting a marking scheme approach, an assessment panel shall be established to evaluate the technical submissions. The assessment panel shall be made up of suitably qualified personnel capable of making an independent assessment of the tenderers' submissions, technical or otherwise. The assessment panel shall consist of a chairman plus at least two other members. Normally the chairman will not mark the tenderer's submissions in order to ensure that the meeting is considered orderly and impartially. The chairman shall be a directorate officer while the other members shall be public officers of professional rank or above from more than one department. Members of the project team and members of the assessment panel including the chairman should familiarize themselves with the basic requirements, implications and obligations contained in the WTO GPA and the associated rules which govern the subject tender exercise. Reference should be made to the guidelines given under DEVB TC(W) No. 2/2014. For contracts administered by consultants, the consultants may be invited to serve as an adviser to the assessment panel but the consultants shall not be appointed as a member of the assessment panel.

Members of the assessment panel shall individually mark the tenderers' submissions in accordance with the marking scheme. The assessment panel meeting should include a separate agenda item to discuss widely differed marks given by individual panel members (marks differing by two grades or more) if any. Such discussion on why marks have been so different and conclusions of the discussion (e.g. whether or not marks have been adjusted following the discussion and the reasons for any mark adjustment; why diverged views/marks have been considered acceptable) should be properly recorded in the minutes indicating clearly the marking members concerned. For each submission, the average mark given by the panel members after adjustment (if any) shall then be taken as the technical score of that submission. The meeting(s) of the assessment panel may be conducted online by means of a secured video conferencing tool (i.e. virtual meeting) in lieu of face-to-face, where found suitable. Further details for the operation of the assessment panel are given in Appendix C of DEVB TCW Nos. 4/2014 and 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024.

6.4 CONFLICT OF INTEREST

The names of officers checking the tenders must be recorded in file and all checked documents should be signed and dated by the checking officers. **All public officers involved in preparing tender documentation (including tender specifications and marking schemes), assessing tenders and conducting negotiations should observe the prevailing civil service guidelines including Civil Service Bureau Circular No. 2/2004 and the provisions in Chapter IA (180 to 197) of the SPRs on how to prevent or deal with conflict of interest situations, and must declare whether they have any actual, potential or perceived conflict of interest upon their taking up of the respective responsibilities in procurement matters and as soon as they become aware of such actual, potential or perceived conflict of interest. When a member of the assessment panel has declared a conflict of interest in the procurement exercise, the chairperson of the assessment panel should decide on the suitability of the member to continue to handle the present procurement taking account of the actual, potential or perceived conflict of interest (subsumed from DEVB TCW No. 8/2014).** Department must state in each tender report whether or not the public officers involved in preparing tender documentation (including tender specifications and marking schemes), assessing tenders and conducting negotiations have declared their interest and, where conflicts of interest (actual, potential or perceived) have been identified, what remedial action has been taken. Reference should be made to Appendix I(A)

of the SPRs for the specimen declaration and undertaking. Departments should consider and if appropriate draw up supplementary guidelines to fit its circumstances on the avoidance of conflicts. A form of undertaking similar to that attached to SFST's memo ref. (10) in FT 93/88 dated 19.12.2007 may be used for the declaration of interests by the officers involved in preparing tender documentation including tender specifications and assessing tenders. All declarations of interest in accordance with SPR 186 should be kept in file for record.

The consultants' directors, employees, agents and sub-consultants are subject to standard probity clauses on acceptance of advantage and entertainment, declaration of conflict of interest and handling of confidential information when they conduct business in connection with consultancy agreements. One of the key services of the consultants is to assess tenders for works contracts. Similar to the arrangement for civil service officers, all consultants' staff involved in the tender exercise of works contracts are required to sign a form undertaking to maintain confidentiality of tender information, avoid and declare conflict of interest with the tenderers. The standard form is appended in Appendix 6.37 for use. The signed forms shall be appended to the tender assessment reports for checking and acceptance by project teams. (Ref.: SDEV's memo ref. () in DEVB(PS) 106/43 dated 11.04.2023.) Amd No. 1/2024

For contracts adopting a marking scheme approach, the assessment panel and the project team, as well as the officer responsible for the safe custody of the sealed envelope on tender prices, should observe the same procedures regarding conflict of interest.

6.5 EXAMINATION OF ELECTRONIC SUBMISSION OF TENDER RETURNS ON REMOVABLE MEDIA

(Subsumed from ETWB TCW No. 11/2005 and SDEV's memo ref. () in DEVB(W) 546/94/01 dated 19.12.2019)

All tenders, whether in the form of hard copy or in electronic files, shall be checked and evaluated on an equal basis. All electronic files in the tender return shall be 'digitally signed' by the tenderer. Organizational e-Cert used for the purpose of applying digital signatures shall be issued under the name of the tenderer and shall be valid as at the tender closing date in Appendix 6.34.

6.6 COMPLIANCE WITH CONDITIONS OF TENDER

(Ref.: ETWB TCW No. 41/2002 & subsumed from DEVB TCW No. 8/2014)

The tender examiner should check that every tender, at the time of opening, complies with the essential requirements set out in the tender document and that it is from a tenderer who is eligible for submitting a tender. He should also check that the Form of Tender is duly completed and contains, inter alia, the names and residential addresses of all partners (if the tender is submitted by a partnership) or offices (if the tender is submitted by an unincorporated body) and the number of the business registration certificate. When there are errors or non-compliance, they shall be dealt with strictly in accordance with the relevant provisions in the conditions of tender. All endorsements and corrections made to tenders in accordance with the conditions of tender by the tender examiner shall be in red ink.

If errors in the pricing documents are found, they shall be corrected in accordance with Appendix 6.27. For the purpose of the correction rules, "error" means

arithmetical error or any form of deviation from a conforming tender including without limitation omission to provide the required information pursuant to a condition of tender.

The rules to be adopted in correcting errors and omissions depend on the type of contract. Endorsements and corrections made to tender documents should be marked in red (on printouts of the electronic part of the tender return if appropriate) for easy identification.

(Ref.: ETWB TCW No. 41/2002)

Where certain tender information is found missing or where a tender contains technical ambiguities, departments will need to consider carefully whether to seek the missing information or clarification from the relevant tenderer. In general, departments shall keep such post-tender closing contacts with tenderers to the minimum. They shall record clearly and in full all such contacts. Most importantly, they must ensure that such contacts will not give a tenderer any advantage or perceived advantage over other tenderers.

Normally, tenderers are permitted to correct unintentional errors of form (for instance, clerical errors) as long as the correction does not change the tender in substance or give an advantage or perceived advantage to the tenderer over other tenderers. The opportunities that may be given to tenderers to correct unintentional errors of form shall be made equally available to all tenderers and shall not be permitted to give rise to any discriminatory practice.

Where the provision of certain information is specified as an “essential requirement” in the tender document and where such information is missing or incomplete in a tender, the tender shall be considered as non-conforming. Departments should not approach the tenderer concerned to correct a non-conforming tender. Such non-conformance is regarded as “submission of non-conforming tender” for the purpose of circumstances warranting regulating action under paragraph 5.2.3(b)(i) of the Contractor Management Handbook and departments should take appropriate action accordingly.

Where any missing information or clarification relates to factual information which does not affect compliance with the essential requirements of the tender or the marking of a technical submission in the case of tender evaluation using a marking scheme, and where there is no room for manipulation by a tenderer by virtue of the late clarification or submission of such information, departments may approach the tenderers concerned for such clarification or missing information. In other cases, departments shall assess a tender as submitted. If departments are in doubt as to whether clarifications should be sought, LAD(W) of DEVB or TLB should be consulted.

Departments should not accept any clarification or information submitted by a tenderer after close of tender irrespective of whether or not the clarification or information is submitted at the invitation of the Government if such clarification or information would alter the tender in substance or give the tenderer an advantage or perceived advantage over the other tenderers.

In approaching a tenderer for clarification, departments must not provide any information that may provide an opportunity for the tenderer to improve his tender and result in an advantageous position over the other tenderers.

In case of special circumstances requiring different consideration, departments shall seek the advice of LAD(W) and/or the relevant tender board.

6.7 FOREIGN CURRENCY CONVERSION (Subsumed from DEVB TCW No. 8/2014)

In general, contract sums for Government contracts should be quoted and paid in Hong Kong dollars. However, in order to avoid tenderers putting in an unreasonable amount of allowance in their quotations to cover risks in exchange rates during the contract period, tenderers may be allowed to quote in foreign currencies. **The conditions under which a department may allow tenderers to quote their offers in foreign currencies are set out in the SPR 355. Where it is allowed and a tender has been priced in whole or in part in a foreign currency, the conversion rate used for tender comparison shall be based on the selling rate of the relevant currency quoted by the Hong Kong Association of Banks at the close of business on the tender closing date. Tender boards/Departmental Tender Committee, in considering recommendations for the award of contracts, will also take into consideration any significant fluctuations in exchange rates after the tender closing date. Departments should state in tender reports the converted tendered sums based on the selling rates on the tender closing date and that on the date of reporting and whether the ranking of the tenders is affected as a result.**

6.8 EXAMINATION OF TENDER PRICES AND RATES (Subsumed from DEVB TCW No. 8/2014)

The tender examiner shall draw the attention of the Engineer designate to items which are obviously and substantially over or under-priced, erratically priced, or not priced at all, in particular to those items which have a potential for contract variations and which, in the event of variations, would have a significant bearing on the final contract sum. Unrealistic prices or rates should always be checked with other sources (Please refer to Para. 6.21). If a department considers that a tender is unreasonably low in terms of price and may therefore affect the tenderer's capability of carrying out the works in accordance with the terms of the contract, the department concerned should further consider the tenderer's capability of undertaking the contract by making an overall assessment of the various risks associated with the acceptance of the unreasonably low tender, such as the risk of the tenderer defaulting (e.g. by claiming that there is a mistake in the pricing of certain items), the risk of the tenderer using sub-standard materials, and the risk of sub-standard workmanship. If a department considers that certain rates in a tender are unreasonably high or erratic and that there is a risk that the tenderer will take advantage of such rates in future claims, the department should assess the risk that the Government will be exposed to in accepting such a tender. When a decision is made to either recommend or not recommend a tender, the tender report should explain the basis of such a decision.

Due care must be exercised in preparing and entering the quantities in the BQ in the first place. Where exceptionally high or low rates are spotted for items in the highest-scored tender during tender assessment, the tender examiner should re-check the corresponding quantities given in the BQ to validate their accuracy. If the quantities are found to be either substantially overstated or understated, a sensitivity analysis shall be carried out to see whether there will be a substantial increase in contract sum or a change in the ranking of the tenders.

Where appropriate, the department should consult LAD(W) and seek the approval of the tender board/Controlling Officer⁴ to carry out tender negotiations with the tenderers by requesting them to submit rates for the new items added to cover the omitted quantities. The tenders will then be assessed with the rates quoted for the new items taken into account. (Ref.: SDEV's memo ref. () in DEVB(W) 545/83/02 dated 2.7.2010)

6.9 PROCEDURE AFTER CORRECTION OF ERRORS AND EXAMINATION OF RATES (Subsumed from DEVB TCW No. 8/2014)

After the correction of tender errors and the identification of any substantially over or under-priced and unpriced items, the Engineer designate shall notify in writing each relevant tenderer of these corrections and irregularities. Before making a recommendation, the Engineer designate shall require each tenderer to confirm in writing that he is prepared to abide by the (corrected) tender. LAD(W) of DEVB or TLB should be consulted on possible remedies available if a tenderer chooses not to abide by the tender.

Negotiation with the tenderer in this respect should not be conducted as this may be construed as giving the tenderer concerned an advantage over the other tenderers.

6.10 TENDER QUALIFICATION (Subsumed from DEVB TCW No. 8/2014)

It is generally stated in tender documents that any qualification of the tender may cause the tender to be disqualified and the Government may not consider the tender further. A tender may, however, be qualified inadvertently owing to different interpretation of particular statements or remarks made by the tenderer in the tender. Approval from the appropriate tender board is NOT required to approach a tenderer in seeking clarification on the purpose or meaning of particular statements or remarks in his tender; reminding him of possible disqualification of his tender; and seeking an unequivocal withdrawal of any qualifications by a reasonable deadline.

Care must be exercised in approaching tenderers for clarification of tender qualifications, and legal advice from LAD(W) of DEVB or TLB should be sought where necessary. Under no circumstances can a qualified tender be rejected, expressly or otherwise, without the prior authority from the appropriate tender board.

6.11 DESIGNS AND ALTERNATIVE DESIGNS BY TENDERERS (Ref.: DEVB TCW No. 3/2014)

Where alternative designs are not invited, alternative tenders shall not be taken into consideration.

⁴ If such authority has been delegated to Controlling Officer via Financial Circular No. 3/2009

Where alternative designs are invited, tenderers may elect to submit a tender conforming to the Engineer/Architect's design and/or in accordance with the invitation to submit a tender with an alternative design, i.e. an alternative tender. It is not necessary that both tenders are submitted. If a tenderer elects to submit both a tender conforming to the Engineer/Architect's design and an alternative tender, the two tenders shall be assessed separately as two independent tenders without affecting each other. The principle is that tenders conforming to the Engineer/Architect's design and those other tenders with alternative designs are evaluated using the same marking scheme, except that the Engineer/Architect's design will serve as a benchmarking reference with a pre-set technical mark for the design attribute(s) whereas a higher or lower mark for those other tenders with alternative designs may be given depending on their own merits. In this situation, the marks given to the corresponding attributes for all other tenders which conform to the Engineer/Architect's designs should always be the Passing Mark(s) which is(are) normally half of the maximum mark(s).

Where tenderers are required to submit tenderer's designs for part of the Works not covered by the Engineer/Architect's design, a tenderer must submit such a design or otherwise, his tender will not be considered.

For a time-critical project, the risks of project slippage as a result of adopting an alternative design shall be critically assessed in accordance with the guidelines set out in ETWB TCW No. 6/2005. The risk assessment shall be included in the tender report for submission to the CTB/PWTB. (Ref.: Audit Report No. 53 Ch. 10)

Where foundation works in the "Scheduled Areas" in the northwest New Territories and Ma On Shan is involved, the tenderers' foundation design proposal shall be submitted to the GEO for comment in accordance with ETWB TCW No. 4/2004.

6.12 CONTRACTORS' ELIGIBILITY TO TENDER **(Subsumed from DEVB TCW No. 8/2014)**

All tenderers, including EMSTF, should be checked to confirm their eligibility to tender with regard to whether they are subject to regulating actions due to convictions under the Employment Ordinance, Immigration Ordinance, Public Health and Municipal Services Ordinance, site safety related offences or environmental offences etc.

A tenderer is eligible for tender submission if he meets the qualification requirements on the date set for the close of tender or, if this has been extended, the extended date.

For determining the eligibility of probationary contractors to tender and for award of contracts, a two-stage checking shall be carried out in accordance with paragraphs 2.5.1, 3.5.1 and Sub-section 7.5 of the Contractor Management Handbook.

6.13 EFFECT OF INCIDENCE OF PAYMENTS **(Subsumed from DEVB TCW No. 8/2014)**

In recommending the acceptance of a tender to a tender board, departments should have value for money in mind. **If the tendered sums, or the overall scores when a marking**

scheme or formula approach is adopted in the tender evaluation, are very close, or if the contract to be awarded involves payments over a number of years, e.g. interim payments to the contractor, the department should compare the tenders by discounting future payments to obtain the present value and use the present value to substitute the tender price in determining the ranking of the tenders. In assessing the present values of tenders, the department may approach the Management Accounting Division of FSTB for advice.

6.14 EVALUATION OF TENDERS

6.14.1 General

(Subsumed from DEVB TCW No. 8/2014)

The tender examiner should examine tenders against the technical specifications, terms and conditions laid down in the tender documents to determine whether they are fully conforming. In recommending a tender for acceptance, the department should check the technical, commercial and financial capability of the tenderer in undertaking the contract, which should include their past performance records and the current performance ratings, conviction records under site safety and environmental pollution related ordinances, Immigration Ordinance, Employment Ordinance, Section 27 of the Public Health and Municipal Services Ordinance (i.e. Mosquito breeding offences), and for contracts with a value exceeding \$100 million any past history of claims pertaining to the honesty and integrity of the tenderers, where available. There is no need to include the above conviction records in the tender report or to summarize the number of these convictions in the text of the tender report, unless special references to these records have been made in the report.

Other than corrections made in accordance with the conditions of tender, departments should not accept any change in tender price offered by a tenderer after close of tender.

Tender evaluation, including financial vetting, normally takes four to six weeks. Under the simplified tendering arrangement promulgated under FC No. 3/2009, Controlling Officers should aim to complete tender evaluation within two to three weeks for works contracts not exceeding \$55 million.

6.14.2 Methods of Tender Evaluation

Basically, tender evaluation should be carried out by means of a marking scheme approach or a formula approach as detailed in DEVB TCW Nos. 4/2014, 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024.

The cut-off dates in different contexts for tender assessment should have been clearly set out in the tender documents of a particular contract and should be followed in the tender evaluation. In general, the original tender closing date (TCD) is to be used for counting the relevant experience and qualification of tenderers and their key personnel irrespective of whether the TCD has been extended, while the extended TCD, if it has been extended, is to be used for counting other aspects of tender assessment (see Appendix 6.32). (Ref.: FSTB's memo ref. () in TsyB T 00/810-6/33/0 Pt 5 dated 8.8.2014)

Details of the Contractor's Performance Index System are given in ETWB TCW No. 3/2007 and DEVB TCW No. 3/2007A.

6.14.3 Technical Submissions

Where a marking scheme in tender evaluation is adopted, the tenderers are required to make a technical submission on technical resources and technical proposal, which shall form part of the contract. Normally, the technical submissions are to be evaluated first. If during the technical assessment it is revealed that it is necessary to deal with any tender qualifications and/or seek any clarifications on any matters in the technical submissions, they should be dealt with and resolved before the tender price documents are opened such that the technical submissions may be properly assessed. The sealed envelope that contains the tender price documents should only be opened after the assessment panel has completed the evaluation of all technical submissions based on the approved marking scheme. The evaluation of the technical submissions shall follow Appendix C of DEVB TCW Nos. 4/2014 & 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024.

The technical submission shall be carefully studied in the tender evaluation process to ensure that it is compatible with all other provisions of the contract. The project officers shall check to ensure that the proposed technical resources such as managerial and technical staff, plant and equipment and the tenderer's technical proposal such as quality assurance plan are essential and sufficient to complete the contract both in an efficient and in a good quality manner.

In order to enhance the quality of works delivery, it is beneficial that the project officers shall assess at the tender evaluation stage if adequate resources for site supervision and a structured site supervision system will be adopted by the tenderer, based on the technical submission being submitted.

For projects involving substantial underground works, consideration should be given to requiring tenderers to submit method statements with indicative costs for dealing with adverse ground conditions even if the occurrence of such conditions are considered rather unlikely by the Engineer. This would improve the chance of completing these projects even if unexpected adverse ground conditions do occur.

6.14.4 Other Checks to be carried out on Tenders

The three tenders with the highest combined price-quality score should also be checked for the following:

- (a) The tenders are signed by persons authorized and where applicable, details of partners etc. agree with those in DEVB's Approved List;**
- (b) A tenderer who is on probation will not exceed the limit of work allowed if awarded the contract (Please refer to Para. 6.14.6);**
- (c) The tenderers are believed to be financially capable of successfully carrying out the contract and any other Government contracts he may hold. According to Para. 2.9.2 of the Contractor Management Handbook, a departmental responsibility in this respect shall be met by consulting the**

Finance Section of DEVB (a sample memo for financial checking is given in Appendix 6.15):

- (i) **In respect of contracts of value exceeding \$15 million; and**
- (ii) **In cases where there is reason to doubt the financial capability of tenderers for contracts with a value of \$15 million or less; and**
- (d) **Where tender addenda have been issued, a check should be made to ensure that the tenderers have submitted with their tenders all the required certification for tender addenda (Para. 5.2). If such certification has not been returned with any one of the tenders, it shall be obtained from the respective tenderer. (Subsumed from WBTC No. 6/95)**

It should be noted that if a tenderer does not meet the qualification requirement by the tender closing date, his tender shall not be considered.

6.14.5 Unified Approach for Rounding Marks in Tender Evaluation and Prequalification Exercises of Works Contracts (Ref.: SDEV's memo ref. DEVB(W)546/84/01 dated 27.1.2010)

There shall be “no rounding” of figures throughout the marking process. For avoidance of doubt, “no rounding” means the whole number including all digits to the right of a decimal separator shall be employed for calculation purposes. The level of precision recommended is 8 decimal places. Procuring departments may choose to adopt a different precision level if so justified.

As regards presentation in the hard-copy form (e.g. marking sheet and tender report, etc.), all figures shall normally be “shown” in 2 decimal places according to the following rule : “round” up the 3rd decimal place if it equals to or exceeds 5 and “round” down if it is below 5. Procuring departments shall choose to adopt more decimal places if so justified, e.g. in checking the passing mark or comparing the final scores. For instance, the final scores of two tenderers of 88.88440000 and 88.88450000 shall be shown as 88.884 and 88.885 respectively.

6.14.6 Eligibility to Tender and for the Award of Contracts for Contractors and Specialist Contractors with Probationary Status

(Ref.: Sections 2.5, 3.5 and 7.5 of Contractor Management Handbook subsumed from SDEV's memo ref. () in DEVB(W) 546/83/01 dated 10.8.2011 and SDEV's memo ref. () in DEVB(PS) 108/34 dated 15.1.2021)

On rare circumstances, a probationary contractor who is eligible to tender may become ineligible for award of the contract due to the tender limit being exceeded as a result of award of another contract of the same category, class and group during the period from tender closing to signing of the tender report. To address the issue, a two-stage checking on the eligibility of probationary contractors to tender and for award of the contract should be carried out. For the details regarding the two-stage checking to be carried out, the checking criteria, parallel tenders and notification to tenderers, please refer to sections 2.5, 3.5 and 7.5 of Contractor Management Handbook subsumed from SDEV's memo ref. () in DEVB(W) 546/83/01 dated 10.8.2011 and SDEV's memo ref. () in DEVB(PS) 108/34 dated 15.1.2021 available at Works Group Intranet Portal. Clauses 30 and 30A in the standard library of General Conditions of

Tender (available in DEVB's internet website and Works Group Intranet Portal) are also relevant.

6.15 TENDER RECOMMENDATIONS

Where it has been specified that the formula approach or a marking scheme is to be used in the tender evaluation, the tenders shall be evaluated strictly in accordance with the rules and the criteria specified. Normally, the tender which attains the highest overall score should be recommended, subject to the usual requirement that the recommended tenderer is fully (technically, commercially and financially) capable of undertaking the contract and that the recommended tender is the most advantageous to the Government in accordance with the tender provisions.

For tenders involving multiple contracts, there may be a cap on the maximum number of contracts that may be awarded to each tenderer. If a tenderer is successful in a number of contracts that exceeds the cap, the department should recommend a tender award combination that would cost least to the Government as set out in Appendix 6.33, unless some other selection criteria have been specified in the tender documents. Reference should be made to S for Tsy's memo ref. (107) in FT 53/88 Pt 2 dated 8.2.2002.

If none of the tenders received complies with the essential requirements of the tender, the department should recommend to the relevant tender board, or the Controlling Officer as the case may be, to cancel the tender exercise (see SPR 380(e) and FC No. 3/2009) and re-tender with revised specifications, terms and conditions, where applicable. If exceptionally departments wish to recommend a non-conforming tender, SPR 370(g) should be followed. Procedures for cancellation of tender exercises under other circumstances should be referred to SPR 380.

6.16 NOT USED

6.17 TENDER NEGOTIATIONS

In general, the Government policy is to seek competitive tenders and to select the offer representing the best value for money. Under certain circumstances, it would be in the Government's best interest to negotiate the award of a contract.

Further details and guidelines on preparing for and conducting negotiations are given in SPR 385 and Appendix III(J) of the SPRs for general reference.

6.18 TENDER REPORT BY THE ENGINEER DESIGNATE

Tender reports for submission to the CTB/PWTB shall be prepared in accordance with the standard format in Appendix III(I) to the SPRs together with any modifications as may be required by the PSTsy from time to time. If it is intended to make use of a tender report prepared by the project consultant for submission to a tender board, it should be accompanied by a covering memo containing an endorsement of the tender report including any other relevant information not covered in the tender report.

(Subsumed from DEVB TCW No. 8/2014) The covering memo should also include a confirmation statement on declaration of no conflict of interest as described in Item (f)(i) below. **The covering memo should be signed by the Head of Department or a directorate officer on his behalf. Where the procurement is governed by WTO GPA, it should be stated in the tender report whether the requirements of WTO GPA have been fully complied with and the reasons for any non compliance. (Subsumed from DEVB TCW No. 8/2014)**

The tender report should be signed by the Engineer designate for the Contract (the practice in WSD is slightly different, as given in WSD's internal documents). Key statements should be written in active voice in order not to blur accountability. For example:

- I recommend acceptance of the tender submitted by
- I consider the recommended tenderer is suitable to carry out the contract
- I confirm that the recommended tenderer is not suspended from tendering
- I consider it realistic to accept the recommended tender

In addition to the information required for a tender report as set out in Appendix III(I) of the SPRs, the following statements/information should also be included where applicable:

- (a) Any tenderer has written in to withdraw his tender.
- (b) If, within the three tenders with the highest combined price-quality score, there are omissions/irregularities in the pricing of such magnitude which would potentially affect the final contract sum significantly due to substantial change in original estimated quantities or due to variations, then this should so stated.
- (c) Any tenderer has been asked to correct the Schedule of Proportions for calculating the Price Fluctuation Factor.
- (d) If only a small number of tenders are received, an explanation should be given for the poor response.
- (e) For prequalified tendering, it has to be confirmed that appropriate endorsement has been obtained for any changes in material particulars of the prequalified tenderers which occur between the prequalification exercise and the submission of the tender report.
- (f) It should be stated that all officers involved in the tender assessment have already declared their interest and, where conflicts of interest (actual, potential or perceived) have been identified, appropriate remedial action has been taken. Sample confirmation statements on declaration of no conflict of interest are as follows:
 - (i) Tender reports prepared by Government officers
“I confirm that all officers involved in preparing tender documentation including tender specifications (including tender specifications and marking schemes) and assessing tenders have declared that there is no actual, potential or perceived conflict of interest for them to take part in the process in accordance with Stores and Procurement Regulation 186.”

- (ii) Tender reports prepared by the project consultants (Ref.: SDEV's e-mail dated 10.7.2008 "Declaration of No Conflict of Interest for Consultants") "We, (name of the project consultant), have declared our compliance with the relevant terms and conditions of the Consultancy Agreement on conflict of interest and confirmed that there was no actual, potential or perceived conflict of interest in connection with our services in the preparation of *tender and contract documents and in the tender exercise.*"

(Note: Replace words in italics by "prequalification document and in the prequalification exercise" for prequalification submissions.)

- (g) For tenders subject to WTO GPA, a statement should be included confirming whether the requirements of WTO GPA have been fully complied with and if not, why not. Department should consult D of J via LAD(W) of DEVB or TLB if there is any doubt as to the requirements of WTO GPA in particular cases.
- (h) For tenders of which the marking scheme approach is adopted, the approved marking scheme and the result of the evaluation should be highlighted in the tender report.
- (i) For tenders with a restriction on the maximum number of contracts to be undertaken by the same contractor imposed (with reference to Para. 3.11 and SFST's memo ref. FT 53/88 Pt. 3 dated 18.11.2004), the tender reports should indicate justifications for setting the restriction and whether the restriction is supported by legal advice.
- (j) The contractors' performance index ratings over the past two years for the three tenders with the highest combined price-quality score.
- (k) Paragraph G of Appendix III(I) to the SPRs requires checking of all performance reports of government contracts and relevant Housing Authority contracts undertaken by the recommended tenderer during the preceding five years ("5-year checking period") and stating the total number of these contracts together with a summary of any adverse report(s) issued under these contracts in the tender report. For tenders adopting the standard marking scheme for tender evaluation, the 5-year checking period shall tally with the 5-year assessment period defined in Appendix C1 to DEVB TCW Nos. 4/2014 & 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated ~~9.7.2021~~ 10.11.2023 Amd No. 2/2024. For tenders adopting the formula approach for tender evaluation, the 5-year checking period shall be counted from the original date set for close of tender or, if this has been extended, the extended date. Copies of the relevant computer printouts of Contractor Management Information System showing the summary of the Contractor's Performance Reports (i.e. RPT0034A for formula approach or RPT0034B for standard marking scheme) and the Contractor's Performance Ratings shall be appended to the tender report. The total no. of contracts and a summary of any adverse report(s) issued as shown in the relevant computer printouts should be stated in the tender report. The same practice is applicable to Housing Authority contracts (Ref.: SDEV's memo ref. () in DEVB(W) 545/83/02 dated 12.2.2010 and SDEV's memo ref. () in DEVB(W) 546/84/01 dated 2.5.2014).

- (l) Conviction records should only be included if special references to these records have been made in the report. (Please refer to Para. 6.14.1).
- (m) If an alternative design is recommended for a time-critical project, the tender report should include the risk assessment of project slippage as a result of adopting the alternative design (Please refer to Para. 6.11). (Ref.: Audit Report No. 53 Ch. 10)

The works department shall state in the tender report any special circumstances or important assumptions governing the tender recommendation (Ref. Appendix III (I) of the SPRs). For example, if a works department notes that there could be a site handover problem (e.g. mismatch of the date for return of a works area from the contractor to the Government under the works contract with the land grant conditions whereby the Government is under an obligation to hand over the land to a third party by a certain date), the department should inform the relevant tender board of the special circumstance accordingly.

The tender report should be submitted to an officer of D2 rank or above for his endorsement and submission to the appropriate tender board (see Appendix 6.16).

Where none of the tenders is recommended for acceptance, the report to be submitted to the appropriate tender board should contain:

- (a) Background information;
- (b) Number of tenders received and their tender price;
- (c) Detailed reasons for not recommending acceptance of any of the received tenders; and
- (d) A recommendation on the way forward and whether a second tender exercise would be required, and if so, the timing and method of re-tendering.

The requirement to prepare and submit tender reports to tender boards does not apply to works contracts awarded under the simplified tendering arrangements promulgated in FC No. 3/2009. Controlling Officers are authorized to approve the award of all contracts not exceeding \$30 million and of all contracts above \$30 million but not exceeding \$55 million provided these are awarded to the highest combined price-quality scorer. If a works contract above \$30 million but not exceeding \$55 million is not recommended to the highest combined price-quality scorer, the project office shall still follow the normal procedures to seek the approval of the relevant tender board.

In any cases, tenderers should only be informed of the result of the tender assessment after a decision from the appropriate authority is received.

6.19 ENDORSEMENT OF TENDER REPORT

The officer of D2 rank or above will forward the Engineer designate's report (the practice in WSD is slightly different, as given in WSD's internal documents) to the chairman of the relevant tender board with a covering memo containing the remark (Appendix 6.16):

“I support the (Engineer designate’s) recommendation in para..... of the attached tender report”.

together with any other comment he may see fit to add in special cases. If there is a delay in putting forward a submission, department must state the reasons in the tender report for not being able to submit on time. In case of a tender report prepared by a non-directorate officer or consultants, and submitted under cover of a memo signed by a directorate officer on behalf of the Head of Department, the memo should contain an endorsement of the tender report in its entirety.

If the officer of D2 rank or above does not support the Engineer designate’s recommendation, he must give an alternative recommendation and reasons for such change.

The Head of Department concerned or his representative may be requested or may himself request to attend the relevant tender board meeting to present his recommendations or to answer any queries that the tender board may have (see SPR 310(c) and 375(c)).

6.20 SUBMISSION OF TENDER REPORTS

For contracts that require submission of tender report to tender boards, the following original tender documents plus six/four copies of the tender report and documents in item (b) below shall be submitted to the CTB/PWTB respectively. For tender report submitting to the CTB, one extra copy of the report should be submitted to SEO(PS) of DEVB (and TLB as appropriate) by hand at the same time.

(a) Original tender documents

- (i) **If the lowest (highest for revenue tenders) tender (in terms of price) or the tender with the highest overall score in formula approach or marking scheme cases is recommended for acceptance, the three lowest (highest) tenders or, as the case may be, the three tenders of the highest overall scores.**
- (ii) **If the recommended tender is not the lowest (highest for revenue tenders), the lower (higher) tender(s), the recommended tender and the next two higher (lower) tenders or, where a formula approach or a marking scheme is adopted and the recommended tender is not of the highest overall score, the tender(s) of higher overall score, the recommended tender and the next two tenders of lower overall scores.**

(b) Copies of correspondence

Copies of correspondence exchanged with the tenderers and the tenderers’ past performance records are not required for submission with the tender report unless special references to these correspondence or records have been made in the report. Normally, it is only necessary for departments to provide a statement summarizing all the post-tender closing contacts such as missing information and clarifications submitted by the tenderers after close of tender and confirming that the tenderers have confirmed in writing that they are prepared to abide by their tenders as may be required

in paragraph 6.9 within the relevant criteria together with a report on the contractors' performance index ratings and a summary of contractor's performance reports within the last five years (Items (j) and (k) of Para. 6.18). While it is not necessary to include the details of the contacts with the tenderers during the tender evaluation stage in the tender report, it should be confirmed in the tender report that the post-tender closing contacts/clarifications with tenderers, if any, are conducted in accordance with the relevant tender terms and SPR 365 (Ref.: SFST's memo ref. (45) in FT 53/88 Pt. 6 dated 31.3.2009).

The tender report must reach the Chairman, CTB/PWTB, by hand if necessary, five clear working days (Saturdays excluded) before the meeting of the tender board, and at least four weeks before, whichever is earlier, the expiry of the validity period of the recommended tender or the intended commencement date of the contract to be awarded. Any recommendation that is considered controversial should allow an extended period to permit the tender board to raise questions and request further information.

6.21 REJECTION OF TENDER

(Ref.: ETWB TCW No. 8/2003 and SDEV's memo ref.(022UY-01-10) in DEVB(W) 510/10/01 dated 31.8.2009)

Departments should note that under no circumstances can a tenderer be advised that his tender is unsuccessful, even though his tender is non-conforming until a decision on tender award is made by the relevant tender board or the Controlling Officer where such authority has been delegated via FC No. 3/2009 (subsumed from DEVB TCW No. 8/2014).

One of the Government's objectives in procurement is to obtain goods and services at the best value for money taking into account not only the competitiveness in prices, but also compliance with users' requirements, reliability of performance, qualitative superiority, whole-life costs and after-sale support, where applicable. It is not in the interest of the Government to accept an unreasonably low bid. Departments should adopt a flexible approach and reject bids that have been priced unreasonably low. It is not practical, if not impossible, to set quantitative guidelines for determining whether a bid is unreasonably low or not. Each case should be considered on its own merits and professional judgement should be exercised. Assessment of the reasonableness of a bid should take account of the following:

- (a) prices, including overall prices as well as any unit rates for major items, quoted by other contractors who have submitted tenders or bids for the contract;**
- (b) pre-tender estimates for the contract;**
- (c) prices, including overall prices as well as any unit rates for major items, quoted by the successful tenderers in recent tender exercises;**
- (d) market rates for major items, if available from other sources;**
- (e) cost build-up rates, including staff rates;**

(f) whether the price is heavily front-loaded.

The tenderer with unreasonably low bid shall not be rejected until approval is obtained from the relevant tender board or the Controlling Officer where such authority has been delegated.

Enquiries must be made with the tenderer before the procuring department decides not to award the contract to the tenderer if a procuring entity has doubts (arising from the unreasonably low bid) on the capability of the tenderer. The following provisions are hereby introduced to supplement the above policy and provisions and shall be read in conjunction with procedures for examination of tenders and submission of tender reports given in this Section:

- (a) If a procuring department considers that, prima facie, a bid is unreasonably low and as such they have concern about the tenderer's capability to fulfil the relevant contract, the department shall make sure that the tenderer does comply with the conditions of participation, and carry out enquiry to find out whether or not the tenderer is capable of fulfilling the terms of the contract prior to making tender recommendation.**
- (b) The procuring department shall inform the tenderer of the precise points that have given rise to their concern on unreasonably low bid and the tenderer's capability to fulfil the contract. The tenderer shall be asked to provide explanations. For example, if the unreasonably low bid is made up of various items and the price/rate for some of these items are considered unreasonably low, the procuring department shall ask for explanations in respect of the specific items.**
- (c) In considering the tenderer's reply, care shall be taken to ensure that the tenderer will not take the opportunity to change or qualify their tender prices or rates or to enhance their tender or to cause any unfairness to any other tenderers.**
- (d) The tenderer shall be advised of the prohibition referred to in subparagraph (c) above and that any explanation given by the tenderer at this stage will only be used to assess whether the tender price is unreasonably low and whether the tenderer is capable to fulfil the contract. If the tenderer gives any explanation which has the potential to introduce any change to the tender (such as qualifying the tender prices or rates for future variations), LAD(W)'s advice shall be sought. Any qualification shall be dealt with in accordance with the established procedures.**
- (e) A sample letter to the tenderer on unreasonably low bids is attached at Appendix 6.29. Project officers may amend the sample letter to suit the needs of their individual contracts. In case of doubt, LAD(W) should be consulted.**
- (f) The recommendation made to the relevant tender board must be fully justified taking into account the outcome of the enquiry made with the tenderer. The head of the procuring department must be personally**

satisfied with and agree to the recommendation made to the relevant tender Board in case of rejection of an unreasonably low bid.

- (g) For the avoidance of doubt, the above provisions apply to all works contracts irrespective of whether they are covered by WTO GPA or not.**

7. ACCEPTANCE OF TENDER

7.1 AUTHORITY TO ACCEPT TENDER

The authority to accept a tender shall be given from either the relevant tender board or the Controlling Officers, depending on the value of contracts and whether the contract is awarded to the highest combined price-quality scorer or not. The appropriate approval authorities are as follows:

Contract Value	Approving Authority
(a) Not exceeding \$30 million	Controlling Officers
(b) Above \$30 million but not exceeding \$55 million and contract is: (i) To be awarded to the highest combined price-quality scorer (ii) Not to be awarded to the highest combined price-quality scorer	Controlling Officers Public Works Tender Board
(c) Above \$55 million but not exceeding \$200	Public Works Tender Board
(d) Above \$200 million	Central Tender Board

The Controlling Officer has the authority of awarding tender not exceeding \$55 million as set out in the above table only if such tender exercises are under the simplified tendering arrangement in accordance with FC No. 3/2009 (i.e. for works contracts that are not subject to the WTO GPA). After a decision has been made on the acceptance of a tender, the secretary of the relevant tender board or the Controlling Officers shall notify the project office of its approval and copy the approval memo to the D of A and the D of GL for information. All tenders submitted with the tender report should be returned with this memo. No action from the project office should be taken until the appropriate approval is received.

7.2 CHECKS PRIOR TO ACCEPTING TENDER

Checks should be made to ensure that:

- (a) ensure that either funds are available for payments to the contractor or that the Finance Committee has approved funds and administrative action is in hand to obtain their release;
- (b) ensure that land required for the work will be available by the contract commencement date or, for staged possession of site, in accordance with the details given in the contract;
- (c) ascertain, in the case where the Special Conditions of Tender have included a clause on reduction of Contingency Sum, whether the Employer/Engineer designate has issued a notification in writing (see Appendix 6.31) referred to in sub-clause (1) of the Special Condition of Tender on reduction of Contingency Sum with request for acknowledgement of receipt. If so, a copy of the

notification in writing referred to in sub-clause (1) of the Special Condition of Tender on reduction of Contingency Sum together with the acknowledgement shall be incorporated in the contract documents forming part of the contract; and

- (d) ensure that the rate of liquidated damages entered into the Appendix to the Form of Tender is a genuine pre-estimate of the Employer's loss judged at the time of entering into the contract and notify the tenderer (with request of acknowledgement) of the rate of LD so calculated before tender acceptance and a copy of such notice shall be incorporated in the contract documents forming part of the contract. (see Para. 16 & 21 of ETWB TCW No. 4/2003).

7.2.1 Post Tender Correspondence Prior to the Issue of the Letter of Acceptance (Subsumed from WBTC No. 6/95)

Where correspondence has been exchanged with a tenderer regarding his tender and it is decided to accept his tender, the Engineer designate for the contract shall decide and agree with the tenderer as to which correspondence shall form part of the contract.

7.3 ACCEPTANCE OF TENDER (Subsumed from WBTC No. 6/95)

A letter of acceptance shown in Appendix 6.17 shall be sent to the successful tenderer with the following content:

- (a) A list of all correspondence exchanged with the tenderer both during the tender period and after receipt of the tender which has been agreed to form part of the Contract, if applicable;**
- (b) Details of insurance to be provided by the Contractor if applicable;**
- (c) Details of bond/security to be provided by the Contractor if applicable (one copy of the standard form of Performance Bond shown in Appendix B of WBTC No. 10/97A may be attached to the letter for the Contractor's reference);**
- (d) Place, date and time for executing the Articles of Agreement;**
- (e) The requirement for a power of attorney for executing the Articles of Agreement if necessary;**
- (f) The title and address of the Engineer for the Contract;**
- (g) The requirement for submission of works programme as stated in GCC Clause 16 and the Safety Plan as stated in relevant SCC if necessary; and**
- (h) Granting of in-principle consent of contract assignment, if applicable (the provision shall be read in conjunction with SDEV's memos ref. (0348H-01), (03969) and () in DEVB(W) 510/33/02 dated 3.1.2020, 12.5.2021 and 10.3.2022 respectively available at Works Group Intranet Portal and Section 21.3 of PAH Chapter 7).**

- (i) Any other relevant instruction or matters relevant to the acceptance of tender.

The letter shall be signed by the Government officers authorized to execute contracts on behalf of Government (Government signatory) (see Para. 9.1).

7.4 FEEDBACK AND DEBRIEFING TO UNSUCCESSFUL TENDERERS

7.4.1 Notification

(Subsumed from LWBTC No. 22/85; Ref.: ETWB TCW No. 42/2002)

Within three working days after the letter of acceptance has been sent to the successful tenderer or upon notification from tender board that no tender is to be accepted, all unsuccessful tenderers shall be notified in writing that their tenders have not been accepted. For contracts with an awarded contract sum or total estimated expenditure above \$4 million, the procuring department shall disclose to the unsuccessful tenderers who have submitted valid tenders the following information where applicable:

- (a) The awarded contract sum;
- (b) The overall quality score of the successful tenderer;
- (c) The highest score attained for each quality attribute in the tendering exercise; and
- (d) The unsuccessful tenderers' own overall quality score and scores for each quality attribute.

For contracts with an awarded contract sum or total estimated expenditure above \$100 million (including Design and Build Contract) and the use of a marking scheme is adopted in tender evaluation, the procuring departments shall also notify the unsuccessful tenderers that they can lodge a request for a debriefing if considered beneficial. However, to save manpower resources, unsuccessful tenderers to be debriefed shall be limited to those who have submitted conforming tenders with tender sums lower than the awarded contract price, or whose tenders are amongst the four highest overall scores. Debriefing need not be offered to unsuccessful tenderers where the formula approach is adopted in tender evaluation or tenderers who have failed in getting prequalified if applicable.

Request for debriefing shall be raised within 3 weeks from the date of the notification letter to the unsuccessful tenderers and late request shall not be entertained. The request shall include a list of questions or issues that the unsuccessful tenderer would like to have further feedback from the procuring department. A number of prerequisites as given in Appendix 6.28 have to be accepted by the unsuccessful tenderers before the requested debriefing should be arranged.

A sample letter to the unsuccessful tenderers is given at Appendix 6.18.

7.4.2 Debriefing

(Ref.: ETWB TCW No. 42/2002)

Upon receipt of a request for debriefing, the procuring department shall fix the date, time and place of the debriefing. Separate debriefing session shall be arranged for each tenderer. Detailed guidelines and procedures for arranging and conducting debriefing session are given in Appendix 6.28. Basically, the following salient points should be noted:

- (a) The debriefing team shall be led by an officer of the rank of senior professional or above from the procuring department with at least one member of the team selected from the assessment panel or who has assisted directly in tender evaluation;
- (b) The number of representatives from the unsuccessful tenderer shall be not more than three;
- (c) No comparison of the unsuccessful tenderer's submission with other submissions shall be discussed;
- (d) The debriefing should be conducted as informal discussion and no formal record or notes (including tape recording) should be prepared;
- (e) Any information that would impede the law enforcement or otherwise be contrary to public interest or would prejudice the legitimate commercial interest of particular enterprises, public or private, or might prejudice fair competition between contractors should not be released; and
- (f) The debriefing shall not be taken as a means or an opportunity for the unsuccessful tenderers to lodge appeal or complaint against tendering result nor to re-open the tendering exercise.

In any case, SPRs 346, 347 and 349 should be strictly followed when responding to any request for information made by the tenderers.

7.5 DISPOSAL OF UNSUCCESSFUL TENDERS (Subsumed from LWBTC No. 22/85)

Submissions from unsuccessful tenderers for contracts tendered under WTO GPA should be retained for a period of 3 years after execution of the contract. For tenders not covered by WTO GPA, submissions from unsuccessful tenderers shall be retained for a period of 3 months after execution of the contract on site, or, until receipt of a notification from tender board that no tender is to be accepted, after which they should be broken up, reusable documents retrieved and the remainder destroyed (see SPR 530(c)).

7.6 AMENDMENTS AFTER THE ISSUE OF THE LETTER OF ACCEPTANCE (Subsumed from WBTC No. 6/95)

Any amendments required after issue of the letter of acceptance can only be made by means of a separate agreement with the tenderer (now Contractor). All such cases must be referred to the LAD(W) of DEVB or TLB for advice.

7.7 REPORTING OF TENDERING PERFORMANCE

The Managing Department of the relevant category is to maintain the records of contractors' tenders, whether accepted or not. The office/division/unit concerned of the department that calls tenders in a particular category or categories should report the tendering performance of all the contractors to the Secretary of the Managing Review Committee (MRC) of the predominated category within one week after acceptance of the tenders by the relevant approving authority. A sample memo for the reporting of tendering performance is given at Appendix 6.19. However, the procuring department should be responsible for uploading the tendering performance onto the Contractor Management Information System (CMIS) (S for W's memo ref. (70) in WB(PS) 105/11(97) XI dated 9.12.99). The CMIS is intended to maintain central records for the better management of the contractors' list, including the tracking of the contractors' tendering performance. For the case where a tender exercise is cancelled under the circumstances as stipulated under SPR 380, the reporting of tendering performance should be carried out within one week after approval of the cancellation of the tender exercise by the relevant authority, and the uploading of the tendering performance onto the CMIS should also be carried out. In such case, the wording of the sample memo at Appendix 6.19 should be adjusted accordingly.

8. ACTION PRIOR TO EXECUTION OF THE ARTICLES OF AGREEMENT

8.1 PREPARATION OF COPIES OF DOCUMENTS (Subsumed from LWBTC No. 22/85)

Identical sets (number to suit Departmental requirements) of documents comprising the contract (i.e. those referred to in the Articles of Agreement) shall be prepared.

6 sets of contract documents shall be prepared as set out in the following table:

Sets of Documents		Purpose
3 complete sets	Original (comprising the booklet and/or electronic files returned by the successful tenderer with all the other documents and correspondence comprising the Contract with the exception of GS and SMM)	For signing and subsequent submission to the Accounts Section of the departmental HQ (or the Finance Section for WSD contracts or Accounts Section of respective Office/Region for HyD and CEDD contracts) for safe custody
	Duplicate	Identical with the original, prepared utilizing duplicate copies of standard documents and photocopies of non-standard documents taken from the successful tender
	Triplicate	For signing and passing to the Contractor
3 sets	Identical with the original but without drawings and GCC, prepared utilizing duplicate copies of standard documents and photocopies of non-standard documents taken from the successful tender	For certifying as true copy and retention by the Engineer for the Contract
		For certifying as true copy and distribution to: <ul style="list-style-type: none"> (i) D of A (softcopy of certified true copy of contract documents in pdf (searchable) format only) (ii) Contract Adviser of the department/office (softcopy of certified true copy of contract documents in pdf (searchable) format only) <small>Amd No. 1/2023</small> (iii) Accounts Section of the departmental HQ (except for HyD and CEDD where the certified true copy should be sent to the relevant Accounts Section responsible for processing payment for that contract.)

Other sets of contract documents shall be prepared for the division/regional office administering the Contract, the Engineer's Representative and his staff as necessary. In particular, for contracts administered by consultants, a quadruplicate copy of the contract documents identical with the original shall be prepared for certifying as true copy for retention by the division/regional office.

The documents shall be bound into separate sets, each set in one volume if practicable, although drawings are normally bound together in a separate volume. Tape shall be threaded through holes punched in the documents and knotted. The knots shall be sealed with "sealing wax" or "adhesive paper seal" and with the office seal applied. The Contractor should also be given the opportunity of fixing his seal on the tape.

If the set of documents comprises more than one volume, each volume shall be similarly taped and clearly marked to indicate the total number of volumes in the set (e.g. volume 1 of three volumes). Moreover, the front sheet of each volume (except for the volume containing the Articles of Agreement) of both the original and the duplicate sets of documents should have provisions made for signatures in the same form as the signature section of the Articles of Agreement.

8.1.1 Incorporation of Amendments and Post Tender Correspondence into Formal Contract Documentation (Subsumed from WBTC Nos. 6/95 & 6/95A; Ref.: DEVB TCW No. 7/2014)

Copies of all documentation that is to form part of the contract must, together with copies of the letter of acceptance, be bound into the formal contract documents.

The following rules should also be followed for the incorporation of amendments and post tender correspondence into contract documents:

- (a) Those parts of the documents that are amended or affected by correspondence exchanged with the tenderer and that have neither been altered in the document nor replaced by an addendum sheet shall be marked "see correspondence". Where the GCC have been amended by SCC, the affected clauses shall be marked "See Special Conditions of Contract".
- (b) Any correspondence exchanged with the tenderer (who is now the Contractor) that has neither been dealt with in accordance with Para. 5.2 nor been referred to in the letter of acceptance and yet is intended to form part of the Contract must be referred to in the Articles of Agreement. This requires amendments to the standard Articles of Agreement which must not be made without reference to the LAD(W) of DEVB or TLB.
- (c) The amendments and correspondence shall be incorporated into the first volume (if there is more than one volume) of the contract documents containing the Articles of Agreement. Where the number of amendments and correspondence is such that it would not be feasible to have them bound into the first volume of the contract documents, copies of all the amendments and correspondence may be placed in a separate volume to the remainder of the documents with an index and a "signature and

witness” sheet (in the same form as the signature section of the Articles of Agreement) at the front of the volume. The “signature and witness” in this volume is to be completed at the time of executing the Articles of Agreement. The various volumes comprising the contract documents should be referenced so that it is quite clear how many volumes are involved and an index should be placed in the first volume making it quite clear that the copies of the correspondence and amendments are in a separate volume.

The sample attestation clauses in a deed for use by the respective parties in a contract given in DEVB TCW No. 7/2014 should be used for all the “signature and witness” sections in the contract documents. The format to be signed by the Contractor differs slightly depending on whether it is an unincorporated body, unincorporated joint venture, company incorporated in or outside Hong Kong, or company incorporated in Mainland China. Different attestation clause shall also be used if the Contract is to be executed under a power of attorney. Execution of the Contract should all be witnessed and the witness shall sign and his/her name, occupation and address shall be stated in the attestation clause.

8.2 CHECKING OF COPIES OF DOCUMENTS

The officer responsible for the preparation of the copies of documents should check that the copies to be signed are all made up correctly and should flag up all places where signatures are required.

The duplicate copy should also be carefully checked independently by another officer against the original documents to ensure its correctness.

The certified true copies should also be completed and checked for correctness by the officer responsible for the preparation of the copies of documents. These copies should be marked “Certified True Copy (signature)” at the top right hand corner of the front cover of the documents.

8.3 APPROVAL OF BONDSMAN

If the Contract requires a bond (see WBTC Nos. 10/97 (as updated by SDEV’s memo ref. () in DEVB(W) 510/70/03 dated 27.7.2021) & 10/97A) and the Contractor elects to provide a bond instead of security money, he should submit the name of his proposed bondsman.

Bondsmen on the Government approved list maintained by DEVB and as notified from time to time by circular memo from the Director of Accounting Services are deemed to be approved automatically. Otherwise, the name of the proposed bondsman must be submitted to the Director of Accounting Services for his approval. Should the Director of Accounting Services not approve the proposed bondsman, then the Contractor must be notified accordingly and instructed to submit the name of another bondsman or deposit the security money within seven days.

8.4 OTHER CHECKS PRIOR TO EXECUTING THE ARTICLES OF AGREEMENT

(Subsumed from LWBTC No. 22/85; Ref.: DEVB TCW No. 7/2014)

Prior to signing the Articles of Agreement, the Contractor should submit and the officer responsible for the preparation of the documents shall ensure the following:

- (a) details given by the successful tenderer and information stated in the Articles of Agreement regarding the names and addresses are in order by checking against his business registration record. This may include checking the Business Registration Certificate, the Certificate of Incorporation, the Certificate of Registration of Oversea Company or the Articles of Association, depending on whether the successful tenderer is an unincorporated body, unincorporated joint venture, company incorporated in or outside Hong Kong, or company incorporated in Mainland China. The guidelines given in DEVB TCW No. 7/2014 should be followed.**

If the successful tenderer is on the list of approved contractors maintained by departments, the department may already have such records indicating the company's business registration certificate number, the date of expiry of the certificate and other relevant information. In such cases, verification will only be necessary annually when the business registration certificate is due for renewal.

- (b) Any insurance policies and receipts for the payment of their premiums that are required by the Contract.**
- (c) The power of attorney produced by the successful tenderer is valid, if the Articles of Agreement are to be executed pursuant to such. The procedures for checking the power of attorney would be different if the company concerned is incorporated in or outside Hong Kong. A sample certification of a copy of the power of attorney and checklists for examining a power of attorney are given in DEVB TCW No. 7/2014.**
- (d) Any other item required by the Contract prior to signing.**
- (e) The bond, if required in the Contract and the Contractor has elected to provide one (refer to WBTC No. 10/97A) (which should be retained and subsequently sent to the Accounts Section of departmental headquarters for safe custody), or the receipt for payment of the security deposit (in which case the receipt number shall be entered in the space provided on the Form of Tender).**
- (f) Joint Venture Guarantee, where applicable. (see ETWB TCW No. 50/2002 as amended by SETW's memo ref. (01656-01-3) in ETWB(W) 511/34/01 dated 4.8.2006 and DEVB TCW No. 7/2014).**
- (g) If common seal is used, check that it is a metallic seal with the name of the company engraved in legible characters.**

If the Articles of Agreement are to be signed under a power of attorney and the Contractor's representative fails to produce an acceptable power of attorney prior to the signing, then the signing must be postponed until either an acceptable power of attorney is produced or the person authorized to sign Government contracts on the Contractor's behalf signs in person.

In case of doubt as to the power of a company to enter into a contract or as to the authority of the person signing a contract on the company's behalf, the department may, if necessary, seek the advice of the Registrar of Companies, preferably at the time the file is being inspected. Most contracts are in a standard form, and their general method of execution will be apparent from the form. Any queries or points of doubt about executing of contracts should be addressed to the LAD(W) of DEVB or TLB but some guidance notes are provided at Appendix V(A) of the SPRs and checklists are given in DEVB TCW No. 7/2014 to assist departments as to specific details.

If the Contractor fails to provide any of the other items referred to above, then the signing should be postponed until they are available unless it is recognized that there may be circumstances which, in the opinion of the Government signatory, dictate that the signing should proceed.

9. EXECUTION OF THE ARTICLES OF AGREEMENT

9.1 SIGNATORIES

(Subsumed from LWBTC No. 22/85; Ref.: DEVB TCW No. 7/2014)

Refer to DEVB TCW No. 7/2014 and any subsequent amendments with regard to person(s) authorized to sign Articles of Agreement on behalf of the Government and Contractor.

Contracts shall be signed on behalf of the Government by officers at the directorate level unless the SFST has authorized otherwise. The normal practice is as follows:

Department/Office	Types of Contract	Officer nominated to sign contracts for and on behalf of Government
CEDD/HyD/DSD/WSD divisions/regional offices/offices headquarters	Contracts arising in the divisions/regional offices/office headquarters for which the respective nominees are responsible	Officer of D2 rank or above
Development Offices of CEDD	All contracts arising in Development Offices of CEDD including contracts managed by consultants	Chief Engineer or above

Note : The officer nominated to sign a contract for and on behalf of Government should not be the same person who will also be nominated as the Engineer for that particular Contract.

The Contractor's signatories for a contract should be in accordance with the following table (see also Appendix V(A) of the SPRs and DEVB TCW No. 7/2014):

Contractor Organization	Signatory	
Sole proprietor	Owner (in person)	Signatory conferred with the requisite power to execute the Articles of Agreement by a power of attorney
Partnership	All partners (jointly)	
Company incorporated in Hong Kong	Signatory in accordance with the Articles of Association of the company and executed with or without a common seal	
Company incorporated outside Hong Kong including Mainland China	Normally overseas companies would execute the Articles of Agreement by a power of attorney. It must be properly notarized and authenticated by the appropriate authorities. Refer to DEVB TCW No. 7/2014 for details.	
Joint venture	Depending on nature of the joint venture – incorporated joint venture or unincorporated joint venture. Refer to DEVB TCW No. 7/2014 for details	

The guidelines in the form of checklists given in DEVB TCW No. 7/2014 for the execution of public works contracts with or without a common seal are given in Appendix 6.30. The guidelines are not hard and fast rules for valid execution and there are other ways of attestation which constitute valid execution. Works department are advised to seek legal advice if they are in doubt.

9.2 SIGNING OF CONTRACT (Subsumed from LWBTC No. 22/85)

If the requisite signatories are present at the date fixed for the signing of the Contract, the signing shall proceed. All signatories of the Contractor should be asked for production of identity card for verification of identity. A note should also be made on file that such verification has been made. Execution of the Contract should be witnessed and the witness(es) should sign accordingly.

The original and the duplicate of the contract documents (Para. 8.1) should be executed as follows:

- (a) the Articles of Agreement signed by all the requisite signatories and the witness(es);
- (b) a wafer applied alongside the Government's signature and
 - (i) where common seal is applied in the Articles of Agreement, the Contractor's company seal applied alongside his signature(s);
 - (ii) where common seal is inapplicable, a wafer applied alongside the Contractor's signature(s).
- (c) if a set comprises more than one volume, the top sheet of each volume other than that containing the Articles of Agreement shall be signed by all the signatories and the witness(es) and dated.

After the signing of the Contract, all documents that are not required for keeping by the department shall be returned to the Contractor.

The details of any insurance policies should be noted in a standard form (see Appendix 6.20) signed by the Engineer for the Contract and attached to the front cover of the original and the certified true copies of the Contract. If the policies are annual policies, the above details should also be recorded in the relevant contract file. The annual policies and the premium receipts shall then be returned to the Contractor. If the policies are specific to the Contract in hand (i.e. other than an annual policy), then the original or certified true copies of the policies and the premium receipts shall be forwarded to the departmental headquarters for retention.

If the requisite signatories are not present, a new date for signing shall be arranged and in the event of the Contractor's failure to comply, the matter shall be referred through office and departmental headquarters to DEVB or TLB.

9.3 RECEIPT FOR DOCUMENTS FROM CONTRACTOR

A letter to acknowledge receipt of the original or certified true copies insurance policy(ies) and/or surety bond from the Contractor should be issued if such are to be retained by the department. (see Appendix 6.21)

9.4 PUBLICITY FOR SIGNING CONTRACTS OF PUBLIC INTEREST

Contracts with a significant social, economic or political impact are of great public interest. The signing of such contracts should receive good publicity and SPO of DEVB or PIO, I&PR of TD (for HyD projects) should be requested to arrange this.

These contracts should preferably be signed by the Head of Office or Head of Department personally.

10. DISTRIBUTION OF CONTRACT DOCUMENTS (Subsumed from LWBTC No. 22/85)

The set of signed and sealed documents incorporating the Contractor's original submission together with the bond (if any) shall be kept in the Managing Department for safe custody. The duplicate of the contract documents shall be delivered by the division/regional office to the Contractor by registered post, or given by hand and a receipt obtained. A softcopy of certified true copy of contract documents in pdf (searchable) format shall be forwarded to the Director of Audit and to Contract Adviser of the department/ office Amd No. 1/2023.

The division/regional office should forward the following to Accounts Sections of the departmental headquarters (or the Finance Section for WSD contracts) by hand with a covering memo as shown in Appendix 6.22:

- (a) Original of the executed contract documents, including drawings if any;
- (b) Original and a copy of the surety bond, if any;
- (c) Original or certified true copies of insurance policies and premium receipts, if any; and
- (d) Three certified true copies of the contract documents (without drawings), i.e. one hard copy and two softcopies of the certified true copies of contract documents Amd No. 1/2023.

Distribution of the documents by departmental headquarters will be as follows:

- (a) One softcopy of certified true copy of contract documents in pdf (searchable) format to Director of Audit;
- (b) One softcopy of Amd No. 1/2023 certified true copy of contract documents in pdf (searchable) format Amd No. 1/2023 to Contract Adviser of the department/office; and
- (c) The original and one certified true copy of the Contract, and the original or certified true copies of the insurance policies and premium receipts and the surety bond (if any) to be retained by Accounts Section of the departmental headquarters or the Finance Section for WSD contracts.

The triplicate of the contract documents should be delivered to the Engineer for the Contract.

The remaining sets of contract documents shall be used as required to suit Departmental requirements.

For HyD, DSD and CEDD, the method of distribution is slightly different. Appendix 6.22 is not used. The Office/Region/Division shall distribute the documents to D of A and the Contract Adviser directly. In addition, the Office/Region/Division shall also provide one certified true copy of the contract documents to its Accounts Section who will be responsible

for processing payment for that contract. For HyD, the original of the contract documents shall be retained in the Accounts Section of the respective Office/Region and the Office/Region shall send to the Accounts Section of the departmental headquarters only the original or certified true copies of the insurance policies and premium receipts (if any) and the surety bond and its copy (if any). For DSD, the Division shall forward to the Departmental Administration Division only the original of the executed contract documents, including drawings if any. For CEDD, the original of the contract documents including drawings (if any) shall be retained in the Accounts Section of the respective Office and the Office/Division shall send to the Accounts Section of the departmental headquarters the original of the insurance policies and premium receipts and surety bond (if any).

11. MISCELLANEOUS

11.1 NOMINATED SUB-CONTRACT

Guidelines set out in Sections 1 to 6 apply generally to tenders for nominated sub-contracts. Gazette notice, tender invitation, prequalification notice etc. should clearly specify that the tender invited or intended to be invited is for a nominated sub-contract.

The procedure for the acceptance of a tender from a nominated sub-contractor is different to that for other contracts as the contract is between the main contractor and the nominated sub-contractor.

Whilst Government nominates the nominated sub-contractor, it is the main contractor who accepts his tender. Consequently, the tender from the sub-contractor who is nominated by Government must be sent to the main contractor to enable him to accept it. A standard letter to the nominated sub-contractor advising him that he has been nominated is given at Appendix 6.23 and a standard letter to the main contractor requesting him to accept the tender and to make arrangements for it to be formally signed and executed is given at Appendix 6.24.

The main contractor is requested to send certified true copies of the executed nominated sub-contract to Government and the Engineer for the Contract.

11.2 HANDLING OF COMPLAINTS

Please refer to SPR 160. For contracts covered by WTO GPA, contractors may make a challenge against alleged breaches of WTO GPA to the Review Body on Bid Challenge. For the rules of operation of the Review Body on Bid Challenges, see the following website for reference:

https://www.tid.gov.hk/english/trade_relations/tradefora/reviewbody/reviewbody.html

11.3 ACCESS TO TENDER INFORMATION

The guidelines on the disclosure of tender information are stipulated in SPRs 346 – 349. In disclosing tender information, departments must ensure that such disclosure will not undermine the integrity of the tendering system, and that the prevailing Code on Access to Information is observed. Legal advice should be sought if in doubt.

11.4 NOTICE TO TENDER BOARDS FOR DETAILS OF THE CONTRACT AWARDED

For contracts tendered under WTO GPA, departments should provide the relevant tender board with the details as prescribed in Appendix 6.25 within two weeks after the contract has been awarded.

11.5 NOTICE TO GOVERNMENT LOGISTICS DEPARTMENT FOR DETAILS OF THE CONTRACT AWARDED

For contracts not exceeding \$55 million handled through the simplified tendering arrangements promulgated in FC No. 3/2009, Controlling Officers are required to notify the Government Logistics Department on contracts awarded by them through the delegated authority to enable the D of GL to arrange to publish the details of the contracts awarded on the Internet.

To facilitate the Government Logistics Department (GLD) in making the necessary arrangement, the procuring department should refer to the guidelines in GLD website to download the latest version e-form (<https://gld.host.ccgo.hksarg/gld/pcms/pcms.html>). (Ref: GLD's email dated 15.4.2015) The list of contracts awarded in a particular month should reach the Government Logistics Department at least two weeks before the end of the following month for publication. Departments may make necessary arrangements to assign an officer to coordinate the return for the whole department regularly. Please also refer to SPR 390(d).

11.6 OBLIGATIONS OF DEPARTMENTS

For contracts tendered under WTO GPA, on request from a contractor, the department shall collect necessary information and provide the contractor with:

- (a) An explanation of its procurement practices and procedures;
- (b) The reasons why its application to qualify was rejected, or why its existing qualification was brought to an end or why it was not selected; and
- (c) (To an unsuccessful tenderer) the reasons why its tender was not selected and pertinent information on the characteristics and relative advantages of the winning tender selected as well as the name of the successful tenderer. Para. 7.4.1, 7.4.2 and Appendix 6.28 provides the guidelines and procedures on debriefing to unsuccessful tenderers. However, departments may decide that certain information on the contract award be withheld where release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interest of particular enterprises, whether public or private, or might prejudice fair competition between contractors or suppliers.

11.7 CESSATION OF THE USE OF ELECTRONIC DATA

If the tenderer has provided an undertaking on the use of Government digital map data as described in Para. 5.4, departments should check whether the relevant cessation notice has been returned by the required date. The requirement is given in Section 8.4 of Chapter 5.

Similarly, the ASP being distributed with an EDP should also be required to submit within 7 days a return notice as given in Schedule 3 to Annex 3 of Appendix 6.34. Departments should retain the return notices for record purpose.

11.8 CONTRACT RATE DATABASE SYSTEM

The Contract Rate Database System was launched by DEVB to provide a convenient access to contract rates of works contracts let by CEDD, DSD, HyD and WSD. The system comprises two different databases, one for civil engineering works and another for electrical and mechanical works. User manual of the system can be obtained through DEVB's intranet portal.

A departmental coordinator in each of the said departments has been assigned to oversee the compilation of the databases. Project engineers of the said departments shall follow the guidelines of their respective departments to submit data files containing the unit rates of major items of awarded contracts to their departmental coordinators. The departmental coordinators shall consolidate and disseminate the data through the Contract Rate Database System.

12. REFERENCES

CSB Circular No. 2/2004	Conflict of Interest
PWD TC No. 11/76	Sale of Plans to Tenderers for P.W.D. Projects
WBTC No. 4/92	Pre and Post Tender Meetings
WBTC No. 10/97	Use of Performance Bonds Security and Retention Moneys and Standard Form of Bond
WBTC No. 10/97A	Use of Performance Bonds Security and Retention Moneys and Standard Form of Bond
WBTC No. 15/99	Improvement to Quality of Maintenance Works
WBTC No. 15/99A	Improvement to Quality of Maintenance Works
WBTC No. 24/99	Restrictions on the award of maintenance and minor works term contracts
WBTC No. 13/2001	Quality Management System Certification of Consultants and Contractors for Public Works Administered by the Works Group of Departments
WBTC No. 13/2001A	Quality Management System Certification of Consultants and Contractors for Public Works Administered by the Works Group of Departments
ETWB TCW No. 15/99B	Improvement to Quality of Maintenance Works
ETWB TCW No. 41/2002	Correction Rules for Tender Errors
ETWB TCW No. 42/2002	Feedback and Debriefing to Unsuccessful Bidders for Consultancy Agreements and Works Contracts
ETWB TCW No. 50/2002	Contractors' Joint Ventures
ETWB TCW No. 4/2003	Assessment of Liquidated Damages
ETWB TCW No. 8/2003	Rejection of Unreasonably Low Bids
ETWB TCW No. 12/2003	Employment of Technician Apprentices and Building & Civil Engineering Graduates by Contractors of Public Works Contracts
ETWB TCW No. 22/2003	Additional Measures to Improve Site Cleanliness and Control Mosquito Breeding on Construction Sites
ETWB TCW No. 22/2003A	Additional Measures to Improve Site Cleanliness and Control Mosquito Breeding on Construction Sites
ETWB TCW No. 4/2004	Checking of Foundation Works in the Scheduled Areas of Northwest New Territories and Ma On Shan and the Designated Area of Northshore Lantau
ETWB TCW No. 6/2005	Implementation of Systematic Risk Management in Public Works Projects
ETWB TCW No. 15/2005	Geotechnical Control for Tunnel Works
ETWB TCW No. 3/2007	Contractors' Performance Index System
DEVB TCW No. 3/2007A	Contractors' Performance Index System

DEVB TCW No. 3/2009	Regulating Action against Contractors for Occurrence of a Serious Incident or Conviction for Site Safety or Environmental Offences
DEVB TCW No. 6/2010	Trip Ticket System for Disposal of Construction & Demolition Materials
DEVB TCW No. 2/2014	Tender Procedures for Procurement governed by the Agreement on Government Procurement of the World Trade Organization
DEVB TCW No. 3/2014	Contractors' Designs and Alternative Designs
DEVB TCW No. 4/2014	Tender Evaluation Methods for Works Contracts
DEVB TCW No. 4/2014A	Tender Evaluation Methods for Works Contracts
DEVB TCW No. 7/2014	Guidance on Execution of Public Works Contracts as a Deed
DEVB TCW No. 5/2015	Prequalification of Tenderers for Public Works Contracts
DEVB TCW No. 4/2017	Employment of Skilled Workers in Public Works Contracts
FC No. 3/2009	Simplified Tendering Arrangement for Capital Works
FC No. 2/2014	Revised Agreement on Government Procurement of the World Trade Organization
FC No. 3/2020	Parallel tendering for contracts
Audit Report No. 53 Ch. 10 - Provision of a bypass in Tuen Mun West	https://www.aud.gov.hk/pdf_e/e53ch10.pdf
D of GL's memo ref. (38) in PD/12/4 dated 12.8.2005	Submission of Government Notices to be Published in the Gazette
DEVB Contractor Management Handbook	https://www.devb.gov.hk/en/construction_sector_matters/contractors/contractor_management_handbook/index.html
DEVB's email dated 10.7.2008	Declaration of No Conflict of Interest for Consultants
DEVB's emails dated 17.5.2021 and 20.5.2021	Updates of Project Administration Handbook for Civil Engineering Works - Appendix 6.2 Sample Tender Notice for Publishing on the Internet on the Department's Homepage, Appendix 6.4A Specimen Gazette Tender Notices and Section 11.5
FSTB Stores and Procurement Regulations	http://fb.host.ccgo.hksarg/spr/spr_e_clean(fc03_2020).pdf
FSTB (Treasury Branch)'s memo ref. (10) in FT 93/88 dated 19.12.2007	Avoiding Conflict of Interest - Declaration and Undertakings by Officers Involved in Preparing Tender Documentation including Tender Specifications and Assessing Tenders
GLD's email dated 15.4.2015	Contract Award Notice

Public Works Tender Board's memo ref. (18) in ASD13/95200/TEN/CLOSE/DAT dated 21.7.2020	Re-location of Public Works Tender Box
S for W's memo ref. () in WB(W) 209/32/110 dated 02.05.2001	Library of Special Conditions of Contract, Clause 14 - Sub-contracting
S for Tsy's memo ref. (6) in FT 53/88/2 dated 28.02.2000	Minimum Wage Requirements in Government Tenders for the Procurement of Services
S for Tsy's memo ref. (107) in FT 53/88 Pt. 2 dated 8.2.2002	Selection of combination of tenders
S for W's memo ref. (70) in WB(PS) 105/11(97) XI dated 09.12.1999	Contractor Management Information System - Tendering Performance
SDEV's memo ref. (01QXA-01-12) in DEVB(W) 546/70/02 dated 23.4.2008	Representatives at Pre-contract Stage
SDEV's memo ref. (022UY-01-10) in DEVB(W) 510/10/01 dated 31.8.2009	ETWB TCW No. 8/2003 - Rejection of Unreasonably Low Bids
SDEV's memo ref. () in DEVB(W) 546/84/01 dated 27.1.2010	Rounding Marks in Tender Evaluation and Prequalification Exercises of Works Contracts and Consultancies
SDEV's memo ref. () in DEVB(W) 545/83/02 dated 12.2.2010	Past Performance Reports of Recommended Tenderer
SDEV's memo ref. () in DEVB(W) 545/83/02 dated 2.7.2010	Checking of Quantities for Items with Exceptional High Tender Rates
SDEV's memo ref. () in DEVB(W) 546/70/01 dated 25.11.2010	Termination of Publication of Tender Notices in Local Newspapers
SDEV's memo ref. () in DEVB(W) 546/83/01 dated 10.8.2011	Contractors and Specialist Contractors with Probationary Status Eligibility to Tender and for the Award of Contracts
SDEV's memo ref. () in DEVB(W) 510/10/01 dated 11.2.2014	Alignment with the new Companies Ordinance (Cap. 622)
SDEV's memo ref. () in DEVB(W) 546/84/01 dated 2.5.2014	DEVB TCW No. 4/2014 Tender Evaluation Methods for Works Contract - Update of cross-references

SDEV's memo ref. () in DEVB(W) 920/30/01 dated 6.1.2015	DEVB TCW No. 2/2014 - Tender Procedures for Procurement governed by the WTO GPA - Extension of tender closing date
SDEV's memo ref. (02VVW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017	SCT 4 – Contractors' Joint Venture
SDEV's memo ref. () in DEVB(W) 510/30/01 dated 29.3.2019	Revision to the Threshold for Legal Vetting of Tender Documents for Works Contracts
SEDEV's memo ref. () in DEVB (W) 546/94/01 dated 19.12.2019	Electronic Dissemination of Tender Documents and Electronic Submission of Tender Returns on Removable Media
SDEV's memo ref. (03487-01-1) in DEVB(W) 510/83/05 dated 31.12.2019	Use of Joint Venture (JV) Proforma
SDEV's memo ref. (0348H-01) in DEVB(W) 510/33/02 dated 3.1.2020	Interim Relief Measure to Assist the Construction Industry – Streamlining the Approval Process of Contract Assignment
SDEV's memo ref. () in DEVB(PS) 108/30 dated 3.1.2020	Notification Letter to Unsuccessful Tenderers
SDEV's memo ref. () in DEVB(PS) 108/34 dated 15.1.2021	List of Approved Contractors for Public Works (the List) and List of Approved Suppliers of Materials and Specialist Contractors for Public Works (the Specialist List) Group Tender Limit, Probationary Limit and Financial Criteria
SDEV's memo ref. () in DEVB(PS) 108/34 dated 29.1.2021	List of Approved Contractors for Public Works (the List) and List of Approved Suppliers of Materials and Specialist Contractors for Public Works (the Specialist List) Revised Contractor Management Handbook
SDEV's memo ref. () in DEVB(W) 546/84/01 dated 25.2.2021	Amendment to DEVB TC(W) No. 4/2014A Introduction of an Option of Price to Technical Weighting of 50/50 in the Standard Marking Scheme for Works Tenders
SDEV's memo ref. (03969) in DEVB(W) 510/33/02 dated 12.5.2021	Extension of Interim Relief Measure to Assist the Construction Industry – Streamlining the Approval Process of Contract Assignment
SDEV's memo ref. () in DEVB(W) 546/84/01 dated 9.7.2021 Amd No. 2/2024	DEVB TC(W) No. 4/2014 & No. 4/2014A Tender Evaluation Methods for Works Contracts— Amendments to Tender Evaluation Methods in respect of the Attributes for Assessing Tenderer's Past Performance
SDEV's memo ref. () in DEVB(W) 510/70/03 dated 27.7.2021	Use of Retention Money and Performance Bond/Cash Security

SDEV's memo ref () in DEVB(W) 510/33/02 dated 10.3.2022	Extension of Interim Relief Measure to Assist the Construction Industry - Streamlining the Approval Process of Contract Assignment
SDEV's memo ref. () in DEVB(PSGO) 38/05 dated 27.6.2022	Reflecting the Returned Tender Prices in Legislative Council
SDEV's memo ref. () in DEVB(W) 510/33/02 dated 8.8.2022	Interim Measures to Support Small and Medium Sized Contractors in Participating in Public Works Projects – Extension of Measures on Broadening the Span of Groups of Contractors to be Invited to Tender
SDEV's memo ref. () in DEVB(PS) 106/43 dated 11.4.2023	Handling of Conflict of Interest – Declaration and Undertakings by Consultants' Staff Involved in Tender Exercise of Works Contracts Amd No. 1/2024
<u>SDEV's memo ref () in DEVB(W) 546/84/01 dated 10.11.2023</u>	<u>DEVB TC(W) No. 4/2014 & No. 4/2014A Tender Evaluation Methods for Works Contracts Merit/ Demerit Point for Safety Amd No. 2/2024</u>
SETW's memo ref. () in ETWB(PS) 111/9 dated 16.1.2003	Dissemination of Tender Notice to the Mainland
SETW's memo ref. (01656-01-3) in ETWB(W) 511/34/01 dated 4.8.2006	ETWB TCW No. 50/2002 Contractor Joint Ventures
SETW's memo ref. (019JP-01-4) in ETWB(W) 510/83/05 dated 2.11.2006	ETWB TCW No. 50/2002 Contractor Joint Ventures
SFST's memo ref. () in FT 53/88 Pt. 3 dated 18.11.2004	Restriction on the Maximum Number of Contracts to be Undertaken by the Same Contractor
SFST's memo ref. (45) in FT 53/88 Pt. 6 dated 31.3.2009	Clarification of Tenders and submission of Tender Reports
SFST's memo ref. (50) in L/M No. (3) to S6/1/21 dated 9.9.2010	Publication of Tender Notices
SFST's memo ref. () in TsyB T 00/810-6/33/0 Pt 5 dated 8.8.2014	Cut-off Dates for Tender Assessment
SFST's memo ref. L/M to TsyB E 00/810-4/1/0 dated 20.12.2017	Amendments to Stores and Procurement Regulations
SFST's memo ref (71) in TsyB T00/810-1/1/0(C) Pt.3 dated 27.8.2018	Tender Opening Issues

APPENDICES

APPENDIX 6.1 CALLING FOR TENDERS - SAMPLE ROUTING SHEET

Contract No.:

Title:

From	Signature /Date	To	Action	Action by D# minus ^{Note 1}
E		CE (thro' SE)	Please approve the checklist, estimates summary and draft documents as follows: - (i) * Memo ^{Note 3} requesting publication of gazette notice for invitation to tender (ii) * Draft tender notice for posting on Internet and, if necessary, advertising in local press / Draft Gazette Notice (copies) ^{Note 2} (iii) * Draft press release (copies) ^{Note 2} (iv) Contract general layout drawings (copies) ^{Note 2}	18– 21 WD
CE		E (thro' SE)	Checklist, estimates and documents (i) to (iv) are agreed. Please fair the documents.	15– 18 WD
E		CE (thro' SE)	Documents (i) to (iv) are faired and attached. Please sign the Memo ^{Note 3} .	12 – 15 WD
CE		D2 or D3 Officer as appropriate (Thro' Tech Sec/SE ^{Note 4})	I attach Documents (i) to (iv) for tender invitation, as well as the checklist and estimates summary for your information. Please sign the Memo ^{Note 3} for tender invitation.	10 – 13 WD
D2 or D3 Officer as appropriate		Director of Department	Documents (i) to (iv), checklist and estimates summary are submitted herewith. Please sign the Memo ^{Note 3} for tender invitation.	8 – 11 WD
Director of Department		Appropriate Tech Sec/ SE ^{Note 4}	I have approved the tender invitation. Please invite tenders. All documents, checklist and estimates summary are returned herewith.	6 – 9 WD
Appropriate Tech Sec/ SE ^{Note 4}		E	I have completed tender invitation	5 – 8 WD

D# = Date of first Tender Invitation

WD = Working Days (excluding Saturday, Sunday and public holidays). The numbers of WD are to be determined by project offices.

* Delete or modify as appropriate

Notes:

- The action dates are given for guidance only and should be set according to the departmental procedures on invitation to tenders. The upper ranges of the action dates are to allow more time for contracts that require tender invitation by Gazette Notice.
- The total number of copies required depends on the method of tender invitation.
- Using sample memo given in Appendix 6.3, PAH (The distribution list may be modified to accord with simplified tendering arrangement in FC No. 3/2009, viz. tender invitation for contract under \$55M need only be published on the Internet.)
- The appropriate Technical Secretary/Senior Engineer of individual project office subject to its arrangement.

CALLING FOR TENDERS - CHECK-LIST

1. Documents attached:

- * (i) Memo requesting for invitation to tender / publication of Gazette Notice
- * (ii) Draft tender notice for posting on the Internet / Draft Gazette Notice
- * (iii) Draft press release
- * (iv) General layout drawing
- * (v) Draft tender documents and drawings
- * (vi) Project file
- * (vii) Calculation file
- * (viii) Quantities file

2. Procedure completed:

Procedure	Folio/File Reference
(a) Legal <ul style="list-style-type: none"> (i) Roads (Works, Use and Compensation) Ordinance (ii) Water Pollution Control Ordinance – Water Pollution Control (Sewerage) Regulation (iii) Foreshore and Sea-bed (Reclamations) Ordinance (iv) EIA Ordinance (v) Others (Please specify) 	
(b) Land <p>Works site, and disposal sites for surplus fill and mud works/borrow areas confirmed by :</p> <ul style="list-style-type: none"> (i) Public Fill Committee (PFC) (ii) Marine Fill Committee (MFC) (iii) District Lands Conference or District Lands Office (iv) Others (Please specify) 	
(c) Tree removal agreed by <ul style="list-style-type: none"> (i) District Lands Conference (ii) LCSD/AFCD 	
(d) General layout agreed (see PWSC Submission Check-List in Project File)	
(e) Works programme agreed by Utilities/circulated to Utilities	
(f) Setting out drawing agreed by Lands Department	
(g) Standard SCT and non-standard SCT approved by an officer of D1 rank or above and an officer of D2 rank or above respectively	
(h) SCC approved by Head of Department/an officer of D2 rank or above/an officer of D1 rank (see Para. 5.2.3 of Chapter 5 as appropriate, who has been delegated with this responsibility)	
(i) Design agreed in principle by (Division/Office responsible for future maintenance)	
(j)* Facilities for Persons with Disabilities have been designed to the established standard.	
or	
(j)* The Rehabilitation Advisory Committee Sub-committee on Access was consulted pursuant to PAH Chapter 4 Para. 4.3.2.	

* Delete where appropriate

3. Attention is drawn to the following special requirements of the Particular Specification:

4. Estimates summary attached.

Project Engineer

(for HyD : (tel. no. :))

CALLING FOR TENDERS – ESTIMATES SUMMARY**I. Estimated Cost of Contract and Related Works**

A.	Investigations	\$
B.	Other Divisions	\$
C.	Other Offices	\$
D.	Other Departments	\$
E.	Resumption and Clearance	\$
F.	Reprovisioning	\$
G.	Utilities	\$
H.	Contracts	\$
J.	Consultants' Fees etc.	\$
K.	Stores and Equipment	\$
L.	Landscaping and Amenities	\$
M.	Miscellaneous	\$
TOTAL COMMITMENT:		\$

II. Project Estimate. Head Subhead

1.	Approved Estimate	\$
2.	Completed & current commitments	
	(a)	\$
	(b)	\$
	(c)	\$
3.	Estimated commitment for this contract and related works	\$
4.	Estimated cost of future works	
	(a)	\$
	(b)	\$
	(c)	\$
TOTAL 2. to 4. :		\$

III. Current Financial Year

1. Funds provided

(a)	in Printed Estimates	\$	
(b)	by supplementary provision	\$	\$
		<hr/>	<hr/> <hr/> <hr/>

2. Estimated Expenditure

(a)	Existing expenditure and commitments	\$	
(b)	this contract and related works	\$	
(c)	Other	\$	\$
		<hr/>	<hr/> <hr/> <hr/>

Supplementary provision has been/will be sought if found necessary.

Project Engineer

(for HyD : (tel. no. :))

**APPENDIX 6.2 SAMPLE TENDER NOTICE / NOTICE FOR
PREQUALIFICATION FOR PUBLISHING ON THE INTERNET
ON THE DEPARTMENT'S HOME PAGE**

Tender Details

Tender Reference: [tender reference/contract number/PWP Item No.]

Procuring Department: [name of department]

Subject: [the subject of the tender or prequalification exercise]

Description: [a brief description in one or two sentences on the goods or services to be procured, or in respect of works contracts, the scope of project [The description should be the same as given in the Gazette Notice if appropriate], the contract period and the scheduled date for the contract commencement.]

Estimated quantity: [estimated quantity of goods or services to be procured, if applicable, or in respect of works contracts, state “not applicable”]

Contact: [name and/or post title of a contact officer to whom enquiries may be directed, and from whom tender or prequalification documents may be obtained]

[address]

[telephone number]

[fax number]

[e-mail address]

Closing Date/Time: [closing time and date for the submission of tender or prequalification applications]

*The closing time has been extended to [new time and date].

**Submission of
*Tenders/prequalification
Applications:**

*Sealed tenders, in *duplicate/triplicate, must be clearly marked with the tender reference and the subject of the tender on the outside of the envelope (but should not bear any indication which may relate the tender to the tenderer) addressed to the Chairman, [state the name of the relevant tender board] and place in [title and address of the tender box]. Tenders must be deposited in the tender box as specified in this tender notice (“Specified Tender Box”) before the tender closing time. Late tenders and tenders not deposited in the Specified Tender Box will not be accepted.

*Completed prequalification applications shall be submitted to [state name and address of the office]. Late applications will not be accepted.

If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9:00 and 12:00 noon on *{the tender closing date}/{the closing date for receipt of prequalification applications}, the closing time will be postponed to 12:00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department
(<https://www.info.gov.hk/gia/general/today.htm>).

- Remarks:** *a. The tender to be invited is covered by the Agreement on Government Procurement of the World Trade Organization and will not involve electronic auction.
- b. ¹{Open tendering is adopted. All interested contractors *{are invited to tender.}/{who also meet the following requirements are invited to tender:- [list out the qualifications or the conditions for participations].}}.
- ^{2&8} {Selective tendering is adopted. *{Confirmed} contractors on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category ³{or joint ventures with participation of local and/or overseas contractors with ⁴{the lead participant or the major shareholder}/⁵{at least one of the participants or shareholders} being a *{confirmed} contractor on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category}, who also meet the ⁶{following} qualifications and ⁶{other} conditions for participation stipulated in the tender documents are invited to tender*{./:}

⁶{List out the required qualifications/experience stipulated in stage I screening}

^{3, 5 & 7} {In case of a joint venture tenderer, the requirement in either paragraph (1) or (2) below has to be satisfied:

(1) the lead participant or major shareholder is a confirmed Group C contractor included in the List of Approved Contractors for Public Works under the [xx] Category; OR

(2) the lead participant or major shareholder is a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case,

- a) the total percentage participation of participant(s) or shareholder(s) who is/are confirmed Group C contractor(s) included in the List of Approved Contractors for Public Works under the [xx] Category is at least 40%; and
- b) the percentage participation of the lead participant or major shareholder is no more than 60%.}}

³{The detailed requirements for joint ventures with participation of local and/or overseas contractors, if applicable, are stipulated in the tender documents.}

⁹{Applicants}/ ^{8&10}{{Confirmed} contractors on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category ³{or joint ventures with participation of local and/or overseas contractors with ⁴{the lead participant or the major shareholder}/⁵ {at least one of the participants or shareholders} being a *{confirmed} contractor on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category}}, who also meet the following requirements and other qualifications and conditions for participation stipulated in the prequalification documents are invited to apply for prequalification:

[state a list and brief description of the qualification/conditions for participation]

^{3, 5, 7 & 8} {In case of a joint venture applicant, the requirement in either paragraph (1) or (2) below has to be satisfied:

(1) the lead participant or major shareholder is a confirmed Group C contractor included in the List of Approved Contractors for Public Works under the [xx] Category; OR

(2) the lead participant or major shareholder is a contractor who is not enlisted in any service category under the List of Approved

Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case,

- a) the total percentage participation of participant(s) or shareholder(s) who is/are confirmed Group C contractor(s) included in the List of Approved Contractors for Public Works under the [xx] Category is at least 40%; and
- b) the percentage participation of the lead participant or major shareholder is no more than 60%.

³{The detailed requirements for joint ventures with participation of local and/or overseas contractors, if applicable, are stipulated in the prequalification documents.}}

- c¹¹. Contractors not yet on the [title(s) of the approved list(s) and category] may also submit a tender if they submit a request for participation together with a duly completed application for inclusion in the above-mentioned approved list/category by ¹² [state the date of the deadline] to ¹³ [address], meet the qualifications and conditions for participation, and the application for inclusion is duly approved on or before the tender closing date. Details for making the application are available at:
https://www.devb.gov.hk/en/construction_sector_matters/contractors/index.html
- d¹⁴. Contractors will be liable to have their names removed from the approved list(s) if they fail or refuse to implement an accepted tender.
- *e¹
4. Tenderers must attach to each tender a cheque/cashier order/the original copy of a receipt for the sum of \$..... as a pledge of the bona fides of their tenders, which amount shall be forfeited to the Government of the Hong Kong Special Administrative Region if any tenderer fails or refuses to implement an accepted tender. The amount will be returned to the unsuccessful tenderers without interest.
- *f. The *{forms of tenders and further particulars}/{prequalification documents} are obtainable from [state the name, address and telephone/fax number/e-mail address of the office, and other information necessary to contact the office and obtain the documents]. *{A sum of \$....., which will not be refunded, is required to cover the cost of the *tender/prequalification documents.}
- *g. A charge will be levied for delivery of *{tender/prequalification} documents where the delivery of *{tender/prequalification} documents is requested by *{a tenderer/an applicant}. A written request must be made.
- h¹⁶. Not more than [State the number] applicants will be selected for tender invitations in accordance with the evaluation criteria stipulated in the prequalification documents.

- i¹⁴. The Government of the Hong Kong Special Administrative Region does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the assessment of the tenders is based on a marking scheme or formula approach, the tender has the highest overall score.
- j. The Government of the Hong Kong Special Administrative Region reserves the right ¹⁵{to reject any application and} to negotiate with any *{tenderer/applicants} about the terms of the offer.
- k¹⁴. Details of the award of this contract will be published on the Internet at <https://pcms2.gld.gov.hk/>.

-
- 1 For open tendering only, delete if not applicable.
- 2 For selective tendering only, delete if not applicable.
- 3 For cases where joint ventures are allowed to tender. Delete if not applicable.
- 4 For contracts of value **below \$2B**. Delete if not applicable.
- 5 For contracts of value **equal to or above \$2B**. Delete if not applicable.
- 6 For contracts incorporate Stage I screening, delete if not applicable
- 7 This paragraph is drafted with reference to DEVB's memo ref. () in DEVB(W) 510/83/05 dated 26 March 2021. Please refer to the latest standard SCT 5 and amend as appropriate.
- 8 In case of tenders inviting from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, please amend to suit.
- 9 For open invitation for prequalification only, delete if not applicable.
- 10 For prequalification submissions invited from contractors on the Approved List only, delete if not applicable.
- 11 For selective tendering under WTO GPA excluding prequalification, delete if not applicable.
- 12 The deadline shall be set at not less than 25 days from the date of publication of the Gazette Tender Notice. See paragraph 22 of DEVB TCW No. 2/2014.
- 13 Address of the responsible officer of the procuring department.
- 14 For Tender Notice other than prequalification only, delete if not applicable.
- 15 For Notice for Prequalification only, delete if not applicable.
- 16 For Type 1 Prequalification only, delete if not applicable.
- * delete where inappropriate
- [] data to be filled in
- { } selective

**SAMPLE TENDER NOTICE / NOTICE FOR PREQUALIFICATION FOR
PUBLISHING ON THE INTERNET ON THE DEPARTMENT'S HOME PAGE
(CHINESE VERSION)**

招標詳情

招標編號： [招標編號／合約編號／工務計劃項目編號]

採購部門： [部門名稱]

項目： [招標項目名稱或投標資格預審項目名稱]

詳情： [簡述所需採購貨品或服務的資料，如屬工程合約，簡述工程的範圍（須與刊載於香港特別行政區政府憲報的敘述相同）、合約期及工程的預計展開日期]

估計數量： [估計所需採購貨品或服務的數量。如屬工程合約，填上「不適用」]

聯絡： [可供投標者查詢及索取投標文件或投標資格預審文件的人員之姓名／職位名稱]

[地址]

[電話號碼]

[傳真號碼]

[電郵地址]

截標日期／時間： [遞交投標書或投標資格預審申請書的截止日期及時間]

*截標時間延至？？？年？月？日(星期?)?午?時

遞交*投標書/投標資格預審申請書：

*投標者必須在一式*兩／三份封密的投標表格信封封面註明招標編號、投標項目(但不得有任何記認，使人認出投標者的身分)及「[相關投標委員會]主席收」。投標者必須把投標書放入[相關投標箱地址]的「[相關投標箱的名稱]」內。投標者必須在截標時間前把投標書放入本招標公告中指定的投標箱(「指定投標箱」)內。逾期遞交或未有放入指定投標箱的投標書，概不受理。

*申請人須把填妥的投標資格預審申請書送交[述明辦公室的名稱和地址]。逾期遞交的申請書概不受理。

若*{截標}/{截止申請}當日上午9時至中午12時期間，八號或以上熱帶氣旋警告信號懸掛，或黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」生效，截止時間會延至八號熱帶氣旋警告信號除下或當時生效的黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」取消後首個工作天中午12時。如在[述明截標日期]星期五上午9時至中午12時期間的任何時間內，前往指定投標箱所在地點的公眾通道受阻，政府會宣布延遲截標時間，直至另行通告。待通道受阻情況獲消除後，政府會盡快公布所延遲的截標時間。以上公布事項會在政府新聞處網頁(<https://www.info.gov.hk/gia/general/ctoday.htm>)以新聞公報形式宣布。

備註： *a. 是次招標受世界貿易組織《政府採購協定》規管，且不涉及電子拍賣。

b. ^{註1}{此招標採用公開招標。現邀請所有有興趣的承*建/造商*{承投這次招標項目}/{並同時符合下列要求[註明所需資格]，承投這次招標項目。}}

^{註2&8}{此招標採用選擇性招標。現邀請名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者}^{註3}{或由本地和/或海外承*建/造商所組成的合營企業(其^{註4}{首席參與者或主要股東}/^{註5}{最少其中一個參與者或股東})必須是名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者}}，並同時符合^{註6}{下列}投標文件列出的資格和^{註6}{其他}條件的承*建/造商^{註3}{或合營企業}承投這次招標項目*{/：}
^{註6}{列出第I階段篩選中訂明的所需資格/經驗}}

^{註3,5&7}{如屬合營企業投標者，投標者需符合以下段落(1)或(2)所列出要求：

(1) 首席參與者或主要股東是名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)；或

(2) 首席參與者或主要股東並非名列認可公共工程承建商名冊和認可公共工程物料供應商及專門承造商名冊上的任何工程類別。就此情況：

甲、 所有名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)的參與者或股東的參與百分比總和不少於40%；和

乙、 首席參與者或主要股東的參與百分比不超過60%。}}

^{註3}{有關由本地和/或海外承建商所組成的合營企業投標者(如適用)的詳細要求，已詳列於招標文件內}.

*{現邀請^{註9}{申請者}/^{註8&10}{名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者}^{註3}{或由本地和/或海外承*建/造商所組成的合營企業(其^{註4}{首席參與者或主要股東}/^{註5}{最少其中一個參與者或股東})必須是名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者}}，並同時符合下列要求以及投標資格預審文件列出的其他資格和條件的承*建/造商^{註3}{或合營企業}，申請投標資格預審：

[列出並簡述參與投標的資格/條件}}

^{註3,5,7&8}{如屬合營企業申請者，申請者需符合以下段落(1)或(2)所列出要求：

(1) 首席參與者或主要股東是名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)；或

(2) 首席參與者或主要股東並非名列認可公共工程承建商名冊和認可公共工程物料供應商及專門承造商名冊上的任何工程類別。就此情況：

甲、 所有名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)的參與者或股東的參與百分比總和不少於40%；和

乙、 首席參與者或主要股東的參與百分比不超過60%。}}

^{註3}{有關由本地和/或海外承建商所組成的合營企業申請者(如適用)的詳細要求，已詳列於招標文件內。}}

- c^{註11}. 承建商如非[有關的認可名冊的名稱和類別]內的承*建/造商也可參與投標，惟須在^{註12}[述明截止日期]或之前提出要求，同時把填妥的納入上述認可名冊／類別申請書送交^{註13}[地址]，符合所需資格和條件，以及在截標日期或之前正式獲准加入名冊。有關申請列入名冊詳情，請參閱：
https://www.devb.gov.hk/en/construction_sector_matters/contractors/index.html
- d^註 投標一經採納，承*建/造商如未能或拒絕履行投標書內的規定，其名稱有可能從認可名冊¹⁴上刪除。
- *e^註 為表明投標者確有誠意，投標者必須繳付按金 元，並把相關支票／銀行本票／按金¹⁴收據正本夾附於每份投標書內。標書一經採納，中標者如未能或拒絕履行投標書內的規定，該筆按金會由香港特別行政區政府沒收。落選者的按金會不附利息悉數發還。
- *f. *{投標表格和進一步資料}/(投標資格預審文件)可向[述明辦事處的名稱、地址和電話／傳真號碼／電郵地址，以及為聯絡辦事處和索取文件所必須的其他資料]索取。*{須繳付*投標文件/投標資格預審文件的費用 元(不會退還，以彌補印製*投標文件/投標資格預審文件的開支)。}
- *g. 有意*{投標者}/(申請者)如要求送遞*{招標}/(投標資格預審)文件，必須以書面提出，並須繳付送遞費用。
- h^註 當局會根據投標資格預審文件訂明的評核準則，選出不超過[述明數目]名申請者。¹⁶
- i^{註14}. 香港特別行政區政府不一定採納任何投標書，包括索價最低的投標書。如投標書評估是按照評分計劃或公式計算，香港特別行政區政府亦不一定採納其中整體得分最高的投標書。
- j. 香港特別行政區政府有權^{註10}{拒絕任何申請及}與任何*{投標者}/(申請者)商議批出合約的條款。
- k^註 批出是項合約的詳情，將在互聯網上公布。請參閱：<https://pcms2.gld.gov.hk/>。¹⁴

-
- 註1 只適用於公開招標，請刪去不適用者。
- 註2 只適用於選擇性招標，請刪去不適用者。
- 註3 適用於容許合營企業參與投標的合約，請刪去不適用者。
- 註4 只適用於總值低於港幣二十億元的合約，請刪去不適用者。
- 註5 只適用於總值等於或高於港幣二十億元的合約，請刪去不適用者。
- 註6 適用於設有第I階段篩選的合約，請刪去不適用者。
- 註7 此段根據發展局通告(參考編號：DEVB(W) 510/83/05，2021年3月26日)草擬。請參考最新標準合約文件(SCT 5)並作出合適更改。
- 註8 如根據認可公共工程物料供應商及專門承造商名冊招標，請作出合適更改。
- 註9 只適用於投標資格預審公開邀請，請刪去不適用者。
- 註10 只適用於認可名冊上的承建/造商所提交的投標資格預審申請，請刪去不適用者。
- 註11 只適用於根據WTO GPA 之選擇性招標(不適用於投標資格預審)，請刪去不適用者。
- 註12 截止日期須訂為刊登相關憲報招標公告的日期起計不少於25天。見發展局的工務技術通告第2/2014號第22段。
- 註13 採購部門負責人員的地址。
- 註14 適用於招標公告，請刪去不適用者。
- 註15 適用於投標者資格預審公告，請刪去不適用者。
- 註16 適用於第I類的投標者資格預審，請刪去不適用者。
- * 刪去不適用者
- [] 請填寫相關資料
- { } 選擇性

APPENDIX 6.3 MEMO REQUESTING PUBLICATION OF GAZETTE NOTICE FOR INVITATION TO TENDER

MEMO	
<i>From</i>	<i>To</i> (Head of Office) *(thro'.....) (Attn.:)
<i>Ref.</i> in	<i>Your</i> in
<i>Tel. No.</i>	<i>Dated</i> <i>Fax. No.</i>
<i>Fax. No.</i>	<i>Total Pages</i>
<i>Date.</i>

Contract No. :

Title :

I forward herewith notification for insertion in the Government of the Hong Kong Special Administrative Region Gazette on.....

2. The scheme for which tenders are to be called for the above Contract forms the *whole/part of Project No. in the *PWP/..... and complies in all essentials with that which was *upgraded to Category A by Finance Committee at its Meeting held on / included in Category D by..... on

3. The estimated cost of this contract is \$ for which funds are available under Head Sub-head

4. #Authority to call for tenders

5. All necessary legal procedures have been completed *and possession of the land has been arranged.

6. In addition, the following is relevant: General Layout Drawing No(s).....

7. As advised by SPO, *a press release is required and a draft press release is attached / a press release is not required.

.....
(Designation of Chief Engineer/Regional Office Head)

* Delete where inapplicable

Authorization to call for tender before funding is secured is allowed under FC No. 3/2020

To: *Director of Civil Engineering and Development
 *Director of Highways
 *Director of Drainage Services
 *Director of Water Supplies

In order, Gazette notification submitted for signature please.

.....
 (Designation of Head of Office)

To: Assistant Clerk to the Executive Council
 thro' Official Languages Division, CSB (Attn: COLO/Unit 3) [- Fax: 2868 4955]*@

Please find attached the draft notification [in triplicate]*@ for publication in the Gazette on the required dates given at paragraph 1 of the attached memo.

.....
 *Director of Civil Engineering and Development
 *Director of Highways
 *Director of Drainage Services
 *Director of Water Supplies

c.c. #With gazette notification

^Director of Government Logistics (Attn.: Chief Proof Reader)

- by fax (2579 1156) and email: pd-gazette@gld.gov.hk

- w/ soft copy of draft notification in the form of *MS Word/ *MS Excel/ *text file
 AND scanned image of draft notification in PDF format

Secretary, *(the relevant Tender Board)*

[- please note that a marking scheme for tender evaluation is adopted for this contract. Tenderers are required to submit "Tender Price Documents" and "Technical Submission" in separate envelopes.

*- Contact detail of the project officer should be provided if the tender is under purview of PWTB]**

*DLO/.....

With gazette notification, draft press release* and notice on the Internet
 Division/Regional Office⁺⁺

*Consulting Engineer

*With gazette notification, draft press release and general layout drawing

CIO, SPO, DEVB or PIO, I&PR, TD (for HyD projects)

- Please return the finalised version of the press release, if amended, to
 CE/GE/GGE/PM ... for agreement before issuing to the Press

Departmental headquarters
Office headquarters

For tenders that need to be distributed to consulates and/or overseas trade commissions, the gazette notification should also be copied to the Economic Affairs Department of the Liaison Office of the Central People's Government in the HKSAR.

For tenders that need to be distributed to the Mainland authorities/enterprises, the gazette notification should also be copied to the Trade Officer of the BJO and SDEV. Please refer to Para. 4.1.2 for details)

* Delete where inapplicable

@ As an initiative to reduce paper consumption, one copy of the draft notification shall be sent by fax only to the specified fax no., as far as practicable. Should the draft notification consist of more than 20 pages, the draft notification shall be sent in triplicate by normal dispatch.

^ Refer to the Circular Memorandum from the D of GL dated 12 August 2005 attached at Annex to Appendix 6.6 regarding the alternative arrangements if soft copy or PDF format of the draft notification cannot be sent by e-mail. Please also refer to Appendix 6.6 regarding the format of the gazette notifications.

++ For tender notices that need to be published in local press, departments should arrange with Director of Information Services to publish tender invitations in at least one English and one Chinese local press. Departments may, in addition, publish tender invitations in selected journals, send invitation letters to qualified contractors and notify consulates and trade commissions in Hong Kong of such invitations, if considered appropriate.

APPENDIX 6.4 SPECIMEN GAZETTE NOTICE FOR PREQUALIFICATION OF TENDERERS

G.N.

DEPARTMENT

Contract No
Contract Title
Public Works Programme Number

NOTICE OF PREQUALIFICATION OF TENDERERS

It is intended to invite tenders in (month and year) from prequalified tenderers for Contract No. [state the contract number and contract title]. The tenders to be invited will be covered by the Agreement on Government Procurement of the World Trade Organization and will not involve electronic auction. This notice also serves as a summary notice required under the Agreement on Government Procurement of the World Trade Organization.

The scope of works of the contract comprises [give a brief description of the works including the nature and the estimated quantity of the project].

¹{Applicants}/ ^{2&8}{*{Confirmed} contractors on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category³{or joint ventures with participation of local and/or overseas contractors with ⁴{the lead participant or the major shareholder}/⁵{at least one of the participants or shareholders}} being a ^{*}{confirmed} contractor on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category }}, who also meet the following requirements and other qualifications and conditions for participation stipulated in the prequalification documents are invited to apply for prequalification:

(state a list and brief description of the qualifications/conditions for participation)

^{3, 5, 6 & 8} {In case of a joint venture applicant, the requirement in either paragraph (1) or (2) below has to be satisfied:

(1) the lead participant or major shareholder is a confirmed Group C contractor included in the List of Approved Contractors for Public Works under the [xx] Category; OR

(2) the lead participant or major shareholder is a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case,

- (a) the total percentage participation of participant(s) or shareholder(s) who is/are confirmed Group C contractor(s) included in the List of Approved Contractors for Public Works under the [xx] Category is at least 40%; and
- (b) the percentage participation of the lead participant or major shareholder is no more than 60%.

³{The detailed requirements for joint ventures with participation of local and/or overseas contractors, if applicable, are stipulated in the prequalification documents.}

The prequalification documents are obtainable from [state the name, address and telephone/fax number/e-mail address of the office, and other information necessary to contact the office and obtain the prequalification documents]. *{A sum of \$....., which will not be refunded, is required to cover the cost of the prequalification documents.}

A charge will be levied for delivery of the prequalification documents where the delivery of prequalification documents is requested by an applicant. A written request must be made.

⁷{Not more than [state the number] applicants will be selected for tender invitations in accordance with the evaluation criteria stipulated in the prequalification documents.}

Completed prequalification applications shall be submitted not later than 12:00 noon on [state the closing date for receipt of prequalification applications] to [state name and address of the office]. Tenders must be deposited in the tender box as specified in this tender notice (“Specified Tender Box”) before the tender closing time. Late tenders and tenders not deposited in the Specified Tender Box will not be accepted. If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9:00 and 12:00 noon on [closing date for receipt of prequalification applications], the closing time will be postponed to 12:00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<https://www.info.gov.hk/gia/general/today.htm>).

^{3*}{Joint ventures satisfying the requirements stated in the prequalification documents will be considered.}

The Government of the Hong Kong Special Administrative Region reserves the right to reject any application and to negotiate with any applicants about the terms of their offers.

Date

Name of Head of Department

1. For open invitation only, delete if not applicable.
2. For prequalification submissions invited from contractors on the Approved List only, delete if not applicable.
3. For cases where joint ventures are allowed to apply for prequalification. Delete if not applicable.
4. For contracts of value **below \$2B**. Delete if not applicable.
5. For contracts of value **equal to or above \$2B**. Delete if not applicable.
6. This paragraph is drafted with reference to DEVB's memo ref. () in DEVB(W) 510/83/05 dated 26 March 2021. Please refer to the latest standard SCT 5 and amend as appropriate.
7. For Type I prequalification, delete if not applicable.
8. For prequalification submissions invited from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, please amend to suit.

* delete if not applicable

[] data to be filled in

{ } selective

投標者資格預審公告(刊憲樣本)

第_____號公告

部門名稱

合約編號_____

合約名稱_____

工務計劃項目第_____號

投標者資格預審公告

當局擬於_____年__月邀請投標資格經預審的投標者承投合約編號[述明合約編號和合約名稱]。是次招標受世界貿易組織《政府採購協定》規管，且不涉及電子拍賣。此公告亦用作世界貿易組織《政府採購協定》所規定的摘要公告。

合約工程範圍包括[簡述工程內容，包括工程性質和預計工程數量]。

¹{申請者}/^{2&8}{名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者}³*{或由本地和/或海外承*建/造商所組成的合營企業(其⁴{首席參與者或主要股東}/⁵{最少其中一個參與者或股東}必須是名列[認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者})}如符合下列要求：

[列出並簡述參與投標的資格/條件]

以及投標資格預審文件列出的其他資格和條件，可申請投標資格預審。

^{3,5,6&8}{如屬合營企業申請者，申請者需符合以下段落(1)或(2)所列出要求：

(1) 首席參與者或主要股東是名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)；或

(2) 首席參與者或主要股東並非名列認可公共工程承建商名冊和認可公共工程物料供應商及專門承造商名冊上的任何工程類別。就此情況：

甲、 所有名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)的參與者或股東的參與百分比總和不少於40%；和

乙、 首席參與者或主要股東的參與百分比不超過60%。}

³{由本地和/或海外承建商所組成的合營企業申請者(如適用)的詳細要求，已詳列於投標資格預審文件內。}

投標資格預審文件可向[述明辦事處的名稱、地址和電話/傳真號碼/電郵地址，以及為聯絡辦事處和索取投標資格預審文件所必須的其他資料]索取。*{須繳付投標資格預審文件的費用_____元(不會退還，以彌補印製招標文件的開支)。}

申請者如要求送遞投標資格預審文件，必須以書面提出，並須繳付送遞費用。

⁷{當局會根據投標資格預審文件訂明的評核準則，選出不超過[述明數目]名申請者。}

填妥的投標資格預審申請書須於[述明投標資格預審申請的截止日期]中午12時前送交[述明辦公室的名稱和地址]。投標者必須在截標時間前把投標書放入本招標公告中指定的投標箱(「指定投標箱」)內。逾期遞交或未有放入指定投標箱的投標書，概不受理。若[投標資格預審申請的截止日期]上午9時至中午12時期間，八號或以上熱帶氣旋警告信號懸掛，或黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」生效，截止申請時間會延至八號熱帶氣旋警告信號除下或當時生效的黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」取消後首個工作天中午12時。如在[述明截標日期]星期五上午9時至中午12時期間的任何時間內，前往指定投標箱所在地點的公眾通道受阻，政府會宣布延遲截標時間，直至另行通告。待通道受阻情況獲消除後，政府會盡快公布所延遲的截標時間。以上公布事項會在政府新聞處網頁(<https://www.info.gov.hk/gia/general/ctoday.htm>)以新聞公報形式宣布。

³*{合營企業如符合投標資格預審文件內所訂要求，其申請亦會獲得考慮。}

香港特別行政區政府有權拒絕任何申請及與任何申請者商議批出合約的條款。

日期

部門首長姓名

- 1 只適用於公開邀請，請刪去不適用者。
- 2 只適用於認可名冊上的承*建/造商所提交的投標資格預審申請，請刪去不適用者。
- 3 適用於容許合營企業參與投標資格預審申請的合約，請刪去不適用者。
- 4 只適用於總值低於港幣二十億元的合約，請刪去不適用者。
- 5 只適用於總值等於或高於港幣二十億元的合約，請刪去不適用者。
- 6 此段根據發展局通告(參考編號：DEVB(W) 510/83/05，2021年3月26日)草擬。請參考最新標準合約文件(SCT 5)並作出合適更改。
- 7 適用於第I類的投標者資格預審，請刪去不適用者。
- 8 如屬根據認可公共工程物料供應商及專門承造商名冊的投標資格預審申請，請作出合適更改。

* 請刪去不適用者
 [] 請填寫相關資料
 { } 選擇性

APPENDIX 6.4A SPECIMEN GAZETTE TENDER NOTICES

G.N. [State the name of department]

It is hereby notified that sealed tenders in *duplicate/triplicate are invited for Contract No. (state the contract number, contract title) *{(Public Works Programme Item No. _____)}. The works include [give a brief description of the works including the nature, the estimated quantity of the project and, where applicable, a description of any options]. The works are scheduled to commence in [month/year] *{and will take about [no. of months] months to complete}/{for completion in [month/year]}.

Tenders must be clearly marked with the tender reference and the subject of the tender on the outside of the envelope (but should not bear any indication which may relate the tender to the tenderer) addressed to the Chairman, [state the name of the tender board to be addressed] and placed in [title and address of the relevant tender box], before 12:00 noon on Friday, [state the tender closing date]. Tenders must be deposited in the tender box as specified in this tender notice (“Specified Tender Box”) before the tender closing time. Late tenders and tenders not deposited in the Specified Tender Box will not be accepted. If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the tender closing time will be postponed to 12:00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<https://www.info.gov.hk/gia/general/today.htm>).

Forms of tender and further particulars are obtainable from [state the name, address and telephone/fax number/e-mail address of the office, and other information necessary to contact the office and obtain the tender documents]. *{A sum of \$....., which will not be refunded, is required to cover the cost of the tender documents.}

¹ & ⁷ {Selective tendering is adopted. *{Confirmed} contractors on the List of Approved Contractors for Public Works in Group [xx] under and the [xx] Category ² {or joint ventures with participation of local and/or overseas contractors with ³ {the lead participant or the major shareholder}/⁴ {at least one of the participants or shareholders} being a *{confirmed} contractor on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category,} who also meet the ⁵ {following} qualifications and ⁵ {other} conditions for participation stipulated in the tender documents are invited to tender *{./:}

⁵ [List out the required qualifications/experience stipulated in stage I screening]

^{2,4} & ⁶ { In case of a joint venture tenderer, the requirement in either paragraph (1) or (2) below has to be satisfied:

(1) the lead participant or major shareholder is a confirmed Group C contractor included in the List of Approved Contractors for Public Works under the [xx] Category; OR

(2) the lead participant or major shareholder is a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case,

- (a) the total percentage participation of participant(s) or shareholder(s) who is/are confirmed Group C contractor(s) included in the List of Approved Contractors for Public Works under the [xx] Category is at least 40%; and
- (b) the percentage participation of the lead participant or major stakeholder is no more than 60%.}}

²{The detailed requirements for joint ventures with participation of local and/or overseas contractors, if applicable, are stipulated in the tender documents.}

⁸Contractors not yet on the [title(s) of the approved list(s) and category] may also submit a tender if they submit a request for participation together with a duly completed application for inclusion in the above-mentioned approved list/category by ⁹[state the date of the deadline] to ¹⁰[address], meet the qualifications and conditions for participation, and the application for inclusion is duly approved on or before the tender closing date. Details for making the application are available at:

https://www.devb.gov.hk/en/construction_sector_matters/contractors/index.html

Contractors will be liable to have their names removed from the approved list(s) if they fail or refuse to implement an accepted tender.

¹¹{Open tendering is adopted. All interested contractors *{are invited to tender.}/{who also meet the following requirements are invited to tender:- [list out the qualifications or the conditions for participations].}}

*{Tenderers must attach to each tender a cheque/cashier order/the original copy of a receipt for the sum of \$..... as a pledge of the bona fides of their tenders, which amount shall be forfeited to the Government of the Hong Kong Special Administrative Region if any tenderer fails or refuses to implement an accepted tender. The amount will be returned to the unsuccessful tenderers without interest.}

*{This tender is covered by the Agreement on Government Procurement of the World Trade Organization and will not involve electronic auction. This notice also serves as a summary notice required under the Agreement on Government Procurement of the World Trade Organization.}

*{A charge will be levied for delivery of tender documents where the delivery of tender documents is requested by a tenderer. A written request must be made.}

The Government of the Hong Kong Special Administrative Region does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the assessment of tenders is based on a marking scheme or formula approach, the tender with the highest overall score.

The Government of the Hong Kong Special Administrative Region reserves the right to negotiate with any tenderer about the terms of the offer.

Details of the award of this contract will be published on the Internet at <https://pcms2.gld.gov.hk/>.

Date

(State the name and title of Head of Department)

- 1 For selective tendering only, delete if not applicable.
- 2 For cases where joint ventures are allowed to tender, delete if not applicable.
- 3 For contracts of value **below \$2B**. Delete if not applicable.
- 4 For contracts of value **equal to or above \$2B**. Delete if not applicable.
- 5 For contracts incorporate Stage I screening, delete if not applicable.
- 6 This paragraph is drafted with reference to DEVB's memo ref. () in DEVB(W) 510/83/05 dated 26 March 2021. Please refer to the latest standard SCT 5 and amend as appropriate.
- 7 In case of tenders inviting from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, please amend to suit.
- 8 For selective tendering under WTO GPA, delete if not applicable.
- 9 The deadline shall be set at not less than 25 days from the date of publication of the Gazette Tender Notice. See paragraph 22 of DEVB TCW No. 2/2014
- 10 Address of the responsible officer of the procuring department.
- 11 For open tendering only, delete if not applicable.

* delete / revise where inappropriate.

[] data to be filled in

{ } selective

招標公告(刊憲樣本)

第_____號公告

[述明部門名稱]

現招標承投合約編號[述明合約編號，合約名稱]*{(工務計劃項目第_____號)}。工程包括[簡述工程內容，包括工程性質、預計工程數量，以及簡述其他選項(如有)]。工程預計於[_____年__月]展開，*{約需時_____個月完成} / {於_____年__月完成}。投標者必須填具一式*兩份 / 三份的投標表格，並把填妥的投標表格放置信封內封密。

投標者須在信封面清楚註明招標編號、投標項目(但不得有任何記認，使人認出投標者的身分)及「[相關投標委員會的名稱]主席收」，並須於[述明截標日期]星期五中午12時前，把投標書放入[相關投標箱的名稱和地址]內。投標者必須在截標時間前把投標書放入本招標公告中指定的投標箱(「指定投標箱」)內。逾期遞交或未有放入指定投標箱的投標書，概不受理。若[截標日期]星期五上午9時至中午12時期間，八號或以上熱帶氣旋警告信號懸掛，或黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」生效，截標時間會延至八號熱帶氣旋警告信號除下或當時生效的黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」取消後首個工作天中午12時。如在[述明截標日期]星期五上午9時至中午12時期間的任何時間內，前往指定投標箱所在地點的公眾通道受阻，政府會宣布延遲截標時間，直至另行通告。待通道受阻情況獲消除後，政府會盡快公布所延遲的截標時間。以上公布事項會在政府新聞處網頁(<https://www.info.gov.hk/gia/general/ctoday.htm>)以新聞公報形式宣布。

投標表格和進一步資料可向[述明辦事處的名稱、地址和電話 / 傳真號碼 / 電郵地址，以及為聯絡辦事處和索取投標文件所必須的其他資料]索取。*{須繳付投標文件的費用_____元(不會退還，以彌補印製招標文件的開支。)})

^{1 & 7} { 此招標採用選擇性招標。現邀請名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者} ²{或由本地和 / 或海外承*建/造商所組成的合營企業(其³{首席參與者或主要股東} / ⁴{最少其中一個參與者或股東})必須是名列認可公共工程承建商名冊內獲准承投[工程類別]的[組別]承*建/造商*{經確認者}}，並同時符合⁵{下列}投標文件列出的資格和⁵{其他}條件的承*建/造商³{或合營企業}承投這次招標項目*{。 / : }

⁵[列出第I階段篩選中訂明的所需資格 / 經驗]

^{2,4&6} {如屬合營企業投標者，投標者需符合以下段落(1)或(2)所列出要求：

(1) 首席參與者或主要股東是名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商 (經確認者)；或

(2) 首席參與者或主要股東並非名列認可公共工程承建商名冊和認可公共工程物料供應商及專門承造商名冊上的任何工程類別。就此情況：

甲、所有名列認可公共工程承建商名冊內獲准承投[工程類別]的丙組承*建/造商(經確認者)的參與者或股東的參與百分比總和不少於40%；和

乙、首席參與者或主要股東的參與百分比不超過60%。}}

²{有關由本地和 / 或海外承建商所組成的合營企業投標者(如適用)的詳細要求，已詳列於招標文件內}

⁸承建商如非在[有關的認可名冊的名稱和類別]內的承*建/造商也可參與投標，惟須在 ⁹[述明截止日期]或之前提出要求，同時把填妥的納入上述認可名冊 / 類別申請書

送交¹⁰[地址]，符合所需資格和條件，以及在截標日期或之前正式獲准加入名冊。有關申請列入名冊詳情，請參閱：

https://www.devb.gov.hk/tc/construction_sector_matters/contractors/index.html

投標一經採納，承*建/造商如未能或拒絕履行投標書內的規定，其名稱有可能從認可名冊上刪除。

¹¹{是次招標採用公開招標。現邀請所有有興趣的承*建/造商*{承投這次招標項目}/{並同時符合下列要求[註明所需資格]，承投這次招標項目。}}

*{為表明投標者確有誠意，投標者必須繳付按金_____元，並把相關支票／銀行本票／按金收據正本夾附於每份投標書內。標書一經採納，中標者如未能或拒絕履行投標書內的規定，該筆按金會由香港特別行政區政府沒收。落選者的按金會不附利息悉數發還。}

*是次招標受世界貿易組織《政府採購協定》規管，且不涉及電子拍賣。此公告亦用作世界貿易組織《政府採購協定》所規定的摘要公告。

*有意投標者如要求送遞招標文件，必須以書面提出，並須繳付送遞費用。

香港特別行政區政府不一定採納任何投標書，包括索價最低的投標書。如投標書評估是按照評分計劃或公式計算，香港特別行政區政府亦不一定採納其中整體得分最高的投標書。

香港特別行政區政府有權與任何投標者商議批出合約的條款。

批出是項合約的詳情，將在互聯網上公布。請參閱：<https://pcms2.gld.gov.hk/>。

日期

[述明部門首長職銜和姓名]

- 1 只適用於選擇性招標，請刪去不適用者。
 - 2 適用於容許合營企業參與投標的合約，請刪去不適用者。
 - 3 只適用於總值低於**港幣二十億元**的合約，請刪去不適用者。
 - 4 只適用於總值等於或高於**港幣二十億元**的合約，請刪去不適用者。
 - 5 適用於設有第I階段篩選的合約，請刪去不適用者。
 - 6 此段根據發展局通告(參考編號：DEVB(W) 510/83/05，2021年3月26日)草擬。請參考最新標準合約文件(SCT 5)並作出合適更改。
 - 7 如根據認可公共工程物料供應商及專門承造商名冊招標，請作出合適更改。
 - 8 只適用於根據世界貿易組織《政府採購協定》之選擇性招標，請刪去不適用者。
 - 9 截止日期須訂為刊登相關憲報招標公告的日期起計不少於25天。見發展局的工務技術通告第2/2014號第22段。
 - 10 採購部門負責人員的地址。
 - 11 只適用於公開招標，請刪去不適用者。
- * 刪去/更改不適用者

[] 請填寫相關資料

{ } 選擇性

CONTENT PAGE FOR GAZETTE NOTICE FOR INVITATION TO TENDER

GAZETTE NO.	/(YEAR)	
		CONTENTS
Government Notice No.	Subject	Page
	TENDERS	
	XX Department	
	(Title of Contract)	

N.B.: “Gazette No.”, “Government Notice No.” and “Page” should be left blank. The details will be inserted by the D of GL.

**CONTENTS PAGE FOR GAZETTE NOTICE FOR INVITATION TO TENDER
(CHINESE VERSION)**

????年第??期憲報

目 錄

政府公告
編號

有關事項

頁數

招標

XX署

(合約名稱)

APPENDIX 6.4B SPECIMEN TENDER INVITATION LETTER FOR SELECTIVE TENDERING

(Contractor)

(Address)

Dear Sirs,

Contract No:

Title :.....

*(Public Works Programme Item No.)

⁶{*{Confirmed} contractors on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category ¹{or joint ventures with participation of local and/or overseas contractors with ²{the lead participant or the major shareholder}/³{at least one of the participants or shareholders} being a *{confirmed} contractor on the List of Approved Contractors for Public Works in Group [xx] under the [xx] Category}, who also meet the ⁴{following} qualifications and ⁴{other} conditions for participation stipulated in the tender documents are invited to submit a sealed tender in *duplicate/triplicate for the above contract*{./:}

⁴{List out the required qualifications/experience stipulated in stage I screening}

^{1, 3 & 5} {In case of a joint venture tenderer, the requirement in either paragraph (1) or (2) below has to be satisfied:

(1) the lead participant or major shareholder is a confirmed Group C contractor included in the List of Approved Contractors for Public Works under the [xx] Category; OR

(2) the lead participant or major shareholder is a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case,

- a) the total percentage participation of participant(s) or shareholder(s) who is/are confirmed Group C contractor(s) included in the List of Approved Contractors for Public Works under the [xx] Category is at least 40%; and
- b) the percentage participation of the lead participant or major shareholder is no more than 60%.}}

¹{The detailed requirements for joint ventures with participation of local and/or overseas contractors, if applicable, are stipulated in the tender documents.}

If you are currently under suspension or voluntary suspension from tendering, your attention is drawn to General Conditions of Tender Clause GCT 22.

The works include [give a brief description of the works including the nature, the estimated quantity of the project and, where applicable, a description of any options]. The works are scheduled to commence in [month/year] *{and will take about [no. of months] months to complete}/{for completion in [month/year]}.

⁷{Tender notice for the next term contract for [state the period of the next term contract] will be published around [state the estimate date in month/year].}

Tenders must be clearly marked with the tender reference and the subject of the tender on the outside of the envelope (but should not bear any indication which may relate the tender to the tenderer) addressed to the Chairman, [state the name of the tender board to be addressed] and placed in [title and address of the relevant tender box] before 12:00 noon on Friday, [state the tender closing date]. Tenders must be deposited in the tender box as specified in this tender notice (“Specified Tender Box”) before the tender closing time. Late tenders and tenders not deposited in the Specified Tender Box not be accepted. If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the tender closing time will be postponed to 12:00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<https://www.info.gov.hk/gia/general/today.htm>).

Forms of tender and further particulars are obtainable from [state the name, address and telephone/fax number/e-mail address of the office, and other information necessary to contact the office and obtain the tender documents]. *{A sum of \$....., which will not be refunded, is required to cover the cost of the tender documents.}

Contractors/suppliers will be liable to have their names removed from the approved list(s) if they fail or refuse to implement an accepted tender.

*{Tenderers must attach to each tender a cheque/cashier order/the original copy of a receipt for the sum of \$..... as a pledge of the bona fides of their tenders, which amount shall be forfeited to the Government of the Hong Kong Special Administrative Region if any tenderer fails or refuses to implement an accepted tender. The amount will be returned to the unsuccessful tenderers without interest.}

*This tender is covered by the Agreement on Government Procurement of the World Trade Organization and will not involve electronic auction.

*A charge will be levied for delivery of tender documents where the delivery of tender documents is requested by a tenderer. A written request must be made.

The Government of the Hong Kong Special Administrative Region does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the

assessment of tenders is based on a marking scheme or formula approach, the tender with the highest overall score.

The Government of the Hong Kong Special Administrative Region reserves the right to negotiate with any tenderer about the terms of the offer.

Details of the award of this contract will be published on the Internet at <https://pcms2.gld.gov.hk/>.

Yours faithfully

(Designation of officer who would sign
the Contract on behalf of Government)

- 1 For cases where joint ventures are allowed to tender. Delete if not applicable.
- 2 For contracts of value **below \$2B**. Delete if not applicable.
- 3 For contracts of value **equal to or above \$2B**. Delete if not applicable.
- 4 For contracts incorporating Stage I screening. Delete if not applicable.
- 5 This paragraph is drafted with reference to DEVB's memo ref. () in DEVB(W) 510/83/05 dated 26 March 2021. Please refer to the latest standard SCT 5 and amend as appropriate.
- 6 In case of tenders inviting from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, please amend to suit.
- 7 For term contracts only, delete if not applicable.

* delete / revise where inappropriate

[] data to be filled in

{ } selective

APPENDIX 6.5 DRAFT PRESS RELEASE FOR GAZETTE NOTIFICATIONDraft Press Release

Tenders are about to be invited for (state the contract title).

2. (Brief description of the scope, location, purpose of the works, and the anticipated contract commencement and completion dates).
3. The works have been designed and construction will be supervised by (state relevant division, office, department or consultants) *for (state client department).

* Delete where inappropriate

**DRAFT PRESS RELEASE FOR GAZETTE NOTIFICATION
(CHINESE VERSION)**新聞公報草稿

- (部門名稱) 將招標承投「_____工程」。
2. (簡短介紹有關公程的範圍、地點、目的和預計施工及完工日期)。
 3. (有關部門辦事處名稱或顧問工程師名稱) 負責設計及監督有關之建造工程。

APPENDIX 6.6 GUIDANCE NOTES FOR PREPARATION OF DOCUMENTS FOR GAZETTE NOTIFICATION AND DRAFT PRESS RELEASE

These guidance notes are for the preparation of the following documents for invitation of tenders by gazette notice:

- (1) Routing sheet, check-list and estimates summary.
- (2) Memo requesting publication of gazette notification.
- (3) Gazette notice (with contents page).
- (4) Contract general layout drawing.
- (5) Draft press release.

(1) Routing sheet, check-list and estimates summary

The preparation of these documents is self-explanatory. It is however crucial to observe the timing for the processing of the documents for gazette notification stated in the routing sheet.

(2) Memo requesting publication of gazette notice

The memo shown in Appendix 6.3 is divided into 3 parts:

Part 1

This part should be signed by the Chief Engineer or Regional Office Head and addressed to the Head of the Office through, if applicable, a designated officer (e.g. Technical Secretary) in the office headquarters. The paragraphs should be completed as follows:

Para. 1 – Enter the dates on which publication is required, which should normally be the dates for two consecutive issues of the gazette. Publication day is a Friday unless otherwise notified when that Friday is a public holiday.

Para. 2 – Fill in the details as appropriate, i.e. the project no, whether the works is in the PWP, whether the work was upgraded to Cat. A or included in Cat. D.

Para. 3 – Enter the contract sum and funding source as appropriate. If the contract includes work for more than one project, modify as:

“The estimated cost of this contract is \$ for which funds are available under Head Sub-head (\$.....) and Head Sub-head (\$.....)”.

If no subhead exists but arrangements have been made for funds to be provided in the following financial year, delete Para. 3 and replace with:

“The estimated cost of this contract is \$ for which funds will be provided in 20..../....”.

The estimated cost of the contract should be at current prices. If the funds provided in the vote are inadequate to cover any increased estimated cost, then a footnote should be made stating that action will be taken to revise the project estimate after tenders are received and before the contract is awarded.

Para. 4 – State the authority for which approval to call for tender has been given. If tender invitation is to proceed before funding is secured as allowed under FC No. 3/2020, the particulars should be given here.

Para. 5 – If approval for tendering before confirmation of land clearance and resumption has been obtained, delete “and possession of the land has been arranged” and state the reference and date of such approval for tendering as appropriate.

Para. 6 – Enter general layout drawing no. and any other relevant information if necessary.

Para. 7 – The need of a press release will depend on the sensitivity of the project and the degree of public/media interest.

Part 2

This part should be signed by the Head of Office if documents for gazette notification are considered to be in order.

Part 3

This part should be signed by the Director of the Department if documents for gazette notification are considered to be in order. Distribution of copies of memo and enclosures to the relevant parties should be made by departmental headquarters.

(3) Gazette notice

The preparation of these documents is self-explanatory. Please refer to Appendix 6.4 and 6.4A for Specimen Gazette Notice for Prequalification of Tenderers and Specimen Gazette Tender Notices respectively.

(4) Contract general layout drawing (not required for WSD contracts)

The contract general layout drawing should show the extent of the works site, works area, borrow and dumping areas as appropriate, and should give an indication of the scope of the works. Where appropriate, cross sections of the

works should be shown. The contract general layout drawing should be coloured. Street names and familiar names of places etc. should, whenever possible, be inserted on the plan, such references as Road R4 should be avoided.

(5) Draft press release

The draft press release should be prepared in both English and Chinese and be forwarded to CIO, SPO, DEVB or PIO, I&PR, TD (for HyD projects) through departmental HQ.

The object of the press release is to inform the public what is being done by Government. When drafting, the following should therefore be borne in mind:

- (i) The press release should be written in such a way that it is interesting and meaningful to the layman. References such as Road P, Area 6 etc. should be avoided as far as possible. Location of the works should be described by referring to existing streets, major buildings, public facilities, villages or town centers, etc.
- (ii) When the job merits it, they should be accompanied by a plan suitable for publication, (no colouring should be used and all lines and printing should be thick enough to be fully legible when the drawing is photo reduced in size).
- (iii) for CEDD/HyD/DSD/WSD projects, the draft should describe, in layman terms, the purpose of the work and the benefits it will bring to the community. It should commence with the phrase “Tenders are about to be invited for” and finish with a sentence to the effect that “the works have been designed and construction will be supervised by (state relevant division, office, department or consultants) for (state client department, if applicable)”.
- (iv) For development projects of CEDD, the draft press release should be written so as to:

emphasize that Development Office of CEDD is building the new towns, and describe in journalistic terms the content of the work and its contribution to the development of the town.

The draft press release should have an opening paragraph similar to:

“The Civil Engineering and Development Department (state also the Development Office concerned) is inviting tenders for another project as part of the continuing programme for the development of (state name of new town). It should be finished with a sentence similar to that for draft press release for CEDD/HyD/DSD/WSD projects.

- (v) Copy the draft press release to CIO or PIO as appropriate with a remark as follows:

“Please return the finalised version of the press release, if amended, to CE/GE/GGE/PM ... for agreement before issuing to the Press.”

Draft press releases regarding works in politically sensitive locations of the urban area should be agreed with the Director of Information Services (DIS). In all cases the assistance of DIS may be sought in preparing the press release.

Any public enquiry about the works to be tendered should be referred to a nominated officer in the office headquarters (normally the Technical Secretary of the office) for processing. CIO, SPO of DEVB or PIO, I&PR of TD (for HyD projects), will assist in arranging radio, television and press interviews where appropriate, after obtaining approval from the Head of Office.

Annex to Appendix 6.6

CIRCULAR MEMORANDUM

<i>From</i>	<u>Director of Government Logistics</u>	<i>To</i>	<u>Directors of Bureaux Heads of Departments</u>
<i>Ref.</i>	<u>(38) in PD/12/4</u>	<i>(Attn :</i>	<u>)</u>
<i>Tel. No.</i>	<u>2564 9502</u>	<i>Your Ref.</i>	<u>in</u>
<i>Fax. No</i>	<u>2516 5786</u>	<i>dated</i>	<u></u>
<i>E-mail</i>	<u>cps@gld.gov.hk</u>	<i>Your Fax</i>	<u></u>
<i>Date</i>	<u>12 Aug 2005</u>	<i>Total Pages</i>	<u></u>

**Submission of Government Notices
to be Published in the Gazette**

The purpose of this circular memorandum is to request responsible officers in Bureaux/Departments (B/D) to submit to the Printing Division of this Department their copies (manuscripts) of the Government Notices to be published in the Gazette in the form of electronic file (soft copy) latest by **1 September 2005**. This is in line with the spirit of e-government and will reduce typesetting work to be undertaken by the Printing Division to enhance cost-effectiveness.

2. The soft copy should be sent to the Senior Proof Reader (Gazette) by e-mail: pd-gazette@gld.gov.hk together with a scanned image of the hard copy saved as PDF file attached to the same e-mail to facilitate proof reading by the Printing Division. This is necessary to safeguard against any possible discrepancy between the output of the softcopy by the Printing Division and that of the originating B/D such as missing fonts or distorted image. If a PDF file cannot be attached for any reason, the B/D should send to the Printing Division a hard copy of the Notice for the attention of Senior Proof Reader (Gazette) by fax at 2579 1156 for proof reading purpose.

3. The soft copy can be submitted in the form of MS Word, MS Excel or simply a text file. Please follow the guidelines on the format to be used at Annex. Senior Proof Reader (Gazette) will acknowledge receipt by e-mail once the file is received. Just in case the soft copy cannot be sent by e-mail for any reason, B/D may also submit the soft copy on a disk with a printed copy of the notice and deliver to the Printing Division.

4. Any enquiry regarding this circular memo should be referred to Mr D S Ng, Chief Proof Reader at telephone No. 2564 9532 or e-mail : cpr@gld.gov.hk.

(Miss Ivy Hong)
for Director of Government Logistics

Annex**GUIDELINES ON THE FORMAT FOR
GOVERNMENT NOTICES IN THE MAIN GAZETTE**English Version

1. In General

8/9 pt Times, maximum text area 176 mm height x 118 mm width

No indentation on first paragraph, indent one pica starting from second paragraph; 0.5 line for space between paragraphs.

2. Font

Appointment & Notices

Department name	-	Times Roman capital/small capital quad right
Main title	-	Times Bold capital centred
Sub-title	-	Times Roman capital/small capital centred
Text	-	Time Roman justify
Column	-	Times Roman quad left, Times Italic for running head
Signature	-	Times Italic quad left for date, Roman for Signature and Italic for post title

For the format on content, please refer to the Government Gazette at www.gld.gov.hk/egazette or the General Regulation 100-127 for reference.

中文版

1. 一般格式

8/11 pt 字身、最大正文版度 176 mm 高 x118 mm 闊

正文第一段齊左起排，第二段起縮入一字身位起排，每段之間開 0.5 行距

2. 字款

委任令及公告

部門名稱	-	細明體(宋體) 分中
主標題	-	粗體 分中
副標題	-	細明體 分中
內文	-	細明體 齊左右
欄	-	細明體 齊左 欄目用斜體
下款	-	細明體 日期齊左 發文人姓名及職銜齊右

招標

部門名稱	-	粗體 分中
主標題	-	粗體 分中
內文	-	細明體 齊左右
欄	-	細明體 齊左 欄目用斜體
下款	-	細明體 日期齊左 發文人姓名及職銜齊右

內文格式可參考憲報或瀏覽憲報網址 www.gld.gov.hk/egazette 及總務規則第 100 至 127 條。

APPENDIX 6.7 SINGLE AND RESTRICTED TENDERING – LETTER OF INVITATION TO TENDER

RESTRICTED (TENDER)

(Contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

*You are hereby invited to submit a sealed tender in *duplicate/triplicate for the above contract. The works include _____ and are scheduled to commence in (month, year) and *will take about (no. of months) months to complete / for completion in (month, year) .

*The tender documents will be available for collection on ___(date)___ from (office, address, *responsible officer) (Telephone No. : _____, Fax No. : _____).

*The tender documents are enclosed herewith and consist of the following:

- (a) One copy of booklet containing:
 - (i) Conditions of Tender comprising the General Conditions of Tender and the Special Conditions of Tender,
 - (ii) Form of Tender,
 - *(iii) Conditions of Contract comprising General Conditions of Contract and the Special Conditions of Contract,
 - *(iv) Articles of Agreement,
 - *(v) Particular Specification,
 - *(vi) Plant and Labour Schedule/*Equipment Schedule,
 - *(vii) Particular Preambles and Bills of Quantities,
 - *(viii) Schedule of Proportions to be used in calculating the Price Fluctuation Factor,
- (b) One duplicate copy of the Form of Tender,
- *(c) One set of drawings as listed in Particular Specification Clause,
- *(d) General Specification for Civil Engineering Works (... Edition),
- *(e) Standard Method of Measurement for Civil Engineering Works (... Edition),

Your tender shall be completed in accordance with the Conditions of Tender and returned in the pre-addressed envelope, clearly marked with the tender reference and the subject of the tender on the outside of the envelope, and *placed in the (name of tender box) situated at (location of tender box) / *returned by post to the Chairman of the (name of tender board) at (address of tender board) before 12:00 noon on Friday, (Date) . Tenders must be deposited in the tender box as specified in this tender notice (“Specified Tender Box”) before the tender closing time. Late tenders and tenders not deposited in the Specified Tender Box not be accepted.

*If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9:00 a.m. and 12:00 noon on Friday, _____ (date) _____, the tender closing time will be postponed to 12:00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<https://www.info.gov.hk/gia/general/today.htm>).

*This tender is covered by the Agreement on Government Procurement of the World Trade Organisation and will not involve electronic auction.

*A charge will be levied for delivery of tender documents where the delivery of tender documents is requested by a tenderer. A written request must be made.

The Government of the Hong Kong Special Administrative Region does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the assessment of tenders is based on a marking scheme or formula approach, the tender has the highest overall score.

The Government of the Hong Kong Special Administrative Region reserves the right to negotiate with any tenderer about the terms of the offer.

*Contractors will be liable to have their names removed from the approved list(s) if they fail or refuse to implement an accepted tender.

*You are invited to attend a pre-tender meeting at _____ (venue, date and time) _____.

Please acknowledge receipt of this letter.

Yours faithfully,

.....
(Designation of officer who would sign
the contract on behalf of Government)

c.c. without encl.
Secretary of the relevant tender board
Director of Audit
CIO, SPO, DEVB or PIO, I&PR, TD (for HyD projects)

Office HQ

Departmental HQ

*Consulting Engineer

* delete where inappropriate

APPENDIX 6.8 SAMPLE LETTER FOR TENDER ADDENDUM

Dear Sirs,

(Contract Title)

I enclose Tender Addendum No. in respect of the above contract. I also enclose an additional copy of this letter with a certification added. You are required to sign this certification and attach it together with the addendum to your tender.

In addition I enclose an acknowledgement letter which you are required to sign and return within two days of receipt of this letter.

Yours faithfully,

.....
(Designation of the Engineer
designate for the Contract)

CERTIFICATION

I certify that Tender Addendum No. forwarded with this letter has been taken into account in my tender.

Authorized Signature of Tenderer
(with Company chop)

Name of Tenderer

ACKNOWLEDGEMENT

(To be signed and returned within two days of receipt of the Tender Addendum)

Date

To: (Designation of the Engineer designate for the contract
or Consultant’s Project Officer as appropriate)

Dear Sir,

(Contract Title)

Tender Addendum No.

We hereby acknowledge receipt of Tender Addendum No. for the above contract.

Yours faithfully,

.....
(Authorized Signature with Company chop)

Name of Company

(Contract Title)

TENDER ADDENDUM NO.
(Sample)

BILLS OF QUANTITIES

Replace Page 2/1 with the enclosed page marked 'TENDER ADDENDUM No.
_____'.
,

The item for demolition of groups of buildings and structures in Area C is deleted.

APPENDIX 6.9 THE ENGINEER FOR CONTRACTSFor CEDD, DSD and WSD contracts

- (1) Contracts administered by Divisions/Regional Offices/Branches : Chief Engineers/
Chief Geotechnical Engineers
- (2) Contracts administered by consultants : Consulting Engineers
- (3) WSD Term Contracts for civil works : Assistant Directors

For HyD contracts

- (1) Contracts administered by consultants : Consulting Engineers
- (2) Contracts administered in-house
 - Contracts of value not exceeding \$50M : Senior professionals
 - Contracts of value \$50M to \$500M : D1
 - Contracts of value exceeding \$500M : D2

Where there is no appropriate rank officer, the 'Engineer' shall normally be an officer at one rank higher but the responsible Head of Office may exercise his discretion to appoint a lower rank officer if good justifications exist. The minimum rank for appointment as the 'Engineer' shall be senior professionals.

Notwithstanding the above general guidelines, contracts of special complexity or sensitivity may demand a higher rank officer to act as the 'Engineer'.

**APPENDIX 6.10 SAMPLE LETTER NOTIFYING TENDERERS FOR
EXTENSION OF TENDER PERIOD****RESTRICTED (TENDER)**

Date

To All Tenderers

Dear Sirs,

(Contract Title)

In connection with _____ (state the reason for extension of tender period) _____, it is decided that the tender period for the above Contract will be extended by _____ (no. of weeks) _____. The closing date for receipt of tenders shall be 12.00 noon on Friday, (date) _____.

I also enclose an acknowledgement letter which you are required to sign and return within two days of receipt of this letter.

Yours faithfully,

.....
(Designation of the Engineer
designate for the Contract)

ACKNOWLEDGEMENT

(To be signed and returned within two days of receipt of the notification letter for extension of tender period)

Date.....

To: (Designation of the Engineer designate for the Contract or Consultant’s Project Officer as appropriate)

Dear Sir,

(Contract Title)

Extension of Tender Period

We hereby acknowledge receipt of notification letter dated _____ (date) for extension of tender period for the above contract.

Yours faithfully,

.....
(Authorized Signature with Company chop)

Name of Company

APPENDIX 6.11 MEMO TO TEDNER BOARD FOR EXTENSION OF TENDER PERIODRESTRICTED (TENDER)

MEMO	
<i>From</i> <i>Ref.</i> <i>in</i> <i>Tel. No.</i> <i>Fax. No.</i> <i>Date.</i>	<i>To</i> Chairman of Tender Board <i>(Attn.:</i>) <i>Your</i> <i>in</i> <i>dated</i> <i>Fax. No.</i> <i>Total Pages</i>

Contract No. _____

 (Title)

Extension of Tender Period

Please be advised that the closing date for receipt of tenders for the above Contract will be extended from ____ (date) ____ to ____ (date) ____ due to ____ (state the reason for extension of tender period) ____.

2. The tenderers have been / will be* informed accordingly.

.....
 (Designation of the Engineer
 designate for the Contract)

Note:

* Delete where inapplicable

APPENDIX 6.12 MEMO REQUESTING PUBLICATION OF GAZETTE NOTICE FOR EXTENSION OF TENDER PERIOD

MEMO	
<i>From</i>	<i>To</i> (Head of Office) *(thro'.....)
<i>Ref.</i> <i>in</i>	<i>(Attn.:</i>
<i>Tel. No.</i>	<i>Your</i> <i>in</i>
<i>Fax. No.</i>	<i>dated</i> <i>Fax. No.</i>
<i>Date.</i>	<i>Total Pages</i>

Contract No. _____
(Title) _____

Extension of Tender Period

I forward herewith notification for insertion in the Government of the Hong Kong Special Administrative Region Gazette on for an extension of time for return of tenders for the above contract from to

2. The extension is considered necessary because (give justification for extension of tender period).
3. The tenderers have been / will be* informed accordingly.

.....
(Designation of Chief Engineer/Regional Office Head)

* Delete where inapplicable

To: *Director of Civil Engineering and Development
 *Director of Highways
 *Director of Drainage Services
 *Director of Water Supplies

In order, Gazette notification submitted for signature please.

.....
(Designation of Head of Office)

To: Assistant Clerk to the Executive Council
thro' Official Languages Division (Attn: COLO/Unit 3)

Please find attached the draft notification in triplicate for publication in the Gazette on the required dates given at paragraph 1 above.

.....
*Director of Civil Engineering and Development
*Director of Highways
*Director of Drainage Services
*Director of Water Supplies

c.c. With gazette notification

Director of Government Logistics (Attn.: Chief Proof Reader)
- by fax (2579 1156) and email: pd-gazette@gld.gov.hk
- w/ soft copy of draft notification in the form of *MS Word/ *MS Excel/ *text file
AND scanned image of draft notification in PDF format
Secretary, *(the relevant Tender Board)*
*DLO/.....
Division/Regional Office
*Consulting Engineer
CIO, SPO, DEVB or PIO, I&PR, TD (for HyD projects)
Departmental headquarters
Office headquarters

* Delete where inapplicable

APPENDIX 6.13 GAZETTE NOTICE FOR EXTENSION OF TENDER PERIOD

G.N. *CIVIL ENGINEERING AND DEVELOPMENT DEPARTMENT
 *HIGHWAYS DEPARTMENT
 *DRAINAGE SERVICES DEPARTMENT
 *WATER SUPPLIES DEPARTMENT

With reference to the Government of the Hong Kong Special Administrative Region Notice No. _____ of _____ (date) and _____ (date) inviting tenders for the (title of Contract and/or brief description of Works and the PWP Item Number in brackets if appropriate) _____, it is hereby notified that the closing date for receipt of tenders shall be extended to 12:00 noon on Friday, _____ (date).

If tropical cyclone signal No. 8 or above is hoisted, or a black rainstorm warning signal or “extreme conditions after super typhoons” announced by the Government is/are in force at any time between 9:00 a.m. and 12:00 noon on Friday, _____ (date), the tender closing time will be postponed to 12:00 noon on the first working day after the tropical cyclone signal No. 8 is lowered, or the black rainstorm warning signal or the “extreme conditions after super typhoons” announced by the Government has/have ceased to be in force. In case of blockage of the public access to the location of the Specified Tender Box at any time between 9:00 a.m. and 12:00 noon on Friday, [tender closing date], the Government will announce extension of the tender closing time until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<https://www.info.gov.hk/gia/general/today.htm>).

.....
 *Director of Civil Engineering and Development
 *Director of Highways
 *Director of Drainage Services
 *Director of Water Supplies

* Delete where inapplicable

**GAZETTE NOTICE FOR EXTENSION OF TENDER PERIOD
(CHINESE VERSION)**

第????號公告

*土木工程拓展署
*路政署
*渠務署
*水務署

有關招標承投_____一事，已在????年??月??日及????年??月??日的香港特別行政區政府公告第????號內公布。現特通知，該項招標的截標日期將延至????年??月??日星期?中午12時。

若????年??月??日星期?上午9時至中午12時期間，八號或以上熱帶氣旋警告信號懸掛，或黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」生效，截標時間會延至八號熱帶氣旋警告信號除下或當時生效的黑色暴雨警告信號或政府公布的「超強颱風後的極端情況」取消後首個工作天中午12時。如在[述明截標日期]星期五上午9時至中午12時期間的任何時間內，前往指定投標箱所在地點的公眾通道受阻，政府會宣布延遲截標時間，直至另行通告。待通道受阻情況獲消除後，政府會盡快公布所延遲的截標時間。以上公布事項會在政府新聞處網頁(<https://www.info.gov.hk/gia/general/ctoday.htm>) 以新聞公報形式宣布。

.....
*土木工程拓展署署長
*路政署署長
*渠務署署長
*水務署署長

APPENDIX 6.14 LETTER FOR EXTENSION OF TENDER VALIDITY PERIOD**RESTRICTED (TENDER)**

(Contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

I should be grateful if you would confirm that you agree to abide by your tender for the above contract for an extended period of days in addition to the days period stipulated in Clause of the Form of Tender, by signing and returning the enclosed letter.

Please note that this letter should not be construed as either an acceptance or a rejection of your tender. Further, this letter should not be construed as indicating that your tender is conforming or non-conforming, or valid or invalid. All tenders are still under consideration and the Government of the Hong Kong Special Administrative Region does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the assessment of tenders is based on a marking scheme or formula approach, the tender has the highest overall score.

Thank you for your co-operation.

Yours faithfully,

.....
(Designation of the Engineer
designate for the Contract)

AGREEMENT TO EXTENSION
OF TENDER VALIDITY PERIOD

Date

To: (Designation of the Engineer designate for the contract
or Consultant’s Project Officer as appropriate)

Dear Sir,

Contract No. :

Title :

I confirm that I agree to extend the validity period of my tender for the above contract from days to days. The tender validity period will therefore expire on (date) .
I agree to abide by my tender until that date.

Yours faithfully,

.....
(Authorized Signature with Company chop)

Name of Company

APPENDIX 6.15 MEMO TO DEVB FOR FINANCIAL CAPABILITY CHECKING**RESTRICTED (TENDER)**

MEMO	
<i>From</i> <i>Ref.</i> <i>in</i> <i>Tel. No.</i> <i>Fax. No.</i> <i>Date.</i>	<i>To</i> Ch TA, Finance Section, DEVB (<i>Attn.:</i>) <i>Your</i> <i>in</i> <i>dated</i> <i>Fax. No.</i> <i>Total Pages</i>

Contract No. _____

 (Title)

Financial Capability Enquiry

Tenders for the above contract have been received and the three tenders with the highest combined price-technical score are as follows:

Name of Contractor	Tender Price (*corrected/uncorrected)	Technical Score	Overall Score (price to technical weighing : 60/40 or 50/50)

2. The anticipated commencement date is and the anticipated completion date is The contract period is months.

3. Please advise the financial capabilities of these contractors to carry out the above work.

4. *Copies of the schedules of work in hand as submitted by Group C Contractors are attached.

*My records show that holds only a probationary status in Group.... Please advise if the permitted workload will be exceeded should this tender be accepted.

.....
 (Designation of Chief Engineer/Regional Office Head)
 or (Signed by a directorate officer for Head Office or Head of Department)
 or (for HyD : Signed by an officer for Head of Office or Head of Department)

* Delete or modify as appropriate

APPENDIX 6.16 COVERING MEMO FOR ENDORSEMENT OF TENDER REPORT

RESTRICTED (TENDER)

MEMO

<p><i>From</i></p> <p><i>Ref.</i> <i>in</i></p> <p><i>Tel. No.</i></p> <p><i>Fax. No.</i></p> <p><i>Date.</i></p>	<p style="text-align: center;">Chairman of Tender Board (thro' Head of Office)</p> <p><i>To</i></p> <p><i>(Attn.:</i> <i>)</i></p> <p><i>Your</i> <i>in</i></p> <p><i>dated</i> <i>Fax. No.</i></p> <p><i>Total Pages</i></p>
---	--

Contract No. _____

 (Title)

Tender Report

*Memo from the Secretary of *Central Tender Board / Public Works Tender Board refers.

2. I submit herewith #4/6 copies of the tender report from (the Engineer designate for the contract) for the above contract.

3. *I support the (Engineer designate’s) recommendation in para. of the attached tender report.

*I support the tender report in its entirety. [It is necessary only when the tender report is prepared by a non-directorate officer or consultants]

*I do not support the recommendation in para of the report. I recommend that *none of the tenders be nominated / the tender submitted by in the sum of \$..... be nominated. The reasons for my recommendation are [Detail reasons as well as the suitability of the recommended tender, the tender recommended by the Engineer designate and other relevant tenders shall be given so that tender boards may be able to decide without referring the tender report back to departments]:

4. I confirm that all officers involved in preparing tender documentation including tender specifications and assessing tenders have declared that there is no actual, potential or perceived conflict of interest for them to take part in the process in accordance with Stores and Procurement Regulation 186.

5. The (No.) tenders are returned herewith.

.....
 (Designation of an Officer of D2 Rank or above)
 or Director of

6. *Please contact for details of this tender report.
 [- Applicable if addressed to PWTB.]

* Delete where inapplicable

4 copies of the tender reports (including the original) are required by Public Works Tender Board whereas 6 copies of the tender reports (including the original) are required by Central Tender Board.

Copy to (with copy of tender report)

SEO(PS), DEVB	(only for tender reports submitting to the Central Tender Board) – Urgent by Hand
Departmental HQ Initiator of Report) (all contracts))
CEDD HQ)
DSD HQ) (if the tender with highest price-quality score is not
HyD HQ) recommended) – without enclosures to the tender report
Consultant	(for project managed by consultant)
Vote Controller	(if project is carried out on agency basis for another department)
Secretary, PWSC	(if approved estimate is exceeded)

APPENDIX 6.17 SAMPLE LETTER OF ACCEPTANCE TO SUCCESSFUL TENDERER

(Contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

In accordance with the decision made by the *Central Tender Board / Public Tender Board / Director of, I hereby notify you that your *(corrected) tender +[, as adjusted in accordance with the notification in writing dated _____ issued by the Government in accordance with sub-clause (1) of the Special Conditions of Tender Clause XX on reduction of Contingency Sum] which totals (words and figures) is accepted.

(If the tender contains alternatives or post-tender correspondence that has modified the tender, then set out what is being accepted. Where the alternatives can only be accurately referred to by reference to sums of money, then these sums should be referred to as being adjustments to the sum given in the Form of Tender.)

* The following correspondence forms part of this Contract:

(List relevant correspondence giving dates and reference numbers together with any enclosures to that correspondence. Pre-tender correspondence is invariably confirmed by a letter or note of acknowledgement but must nevertheless be included. Post-tender correspondence which is to form part of the contract must be agreed to between the two parties in advance of this letter.)

* You should now proceed to effect the following insurance policy(ies):

(i) Third Party Insurance in accordance with Clause of the Special Condition of Contract and Clause of the Particular Specification.

(ii) (Any other special insurance required under the Contract).

The policy(ies) is/are to be submitted to me three working days prior to the date set for executing the Articles of Agreement.

* You should now pay the attached Demand Note No. for \$..... being the security deposit called for by the General Conditions of Contract.

* You are to inform me by return of the name of the Bondsman who has agreed to act as your guarantor in respect of this Contract. For the purpose of providing the bond two

copies of the Government of the Hong Kong Special Administrative Region form of bond are enclosed. The bond must be duly executed as a deed and must be submitted to me three working days prior to the date set for executing the Articles of Agreement.

You or your authorized representative are required to attend a meeting held (place, date, time) for the purpose of executing the Articles of Agreement, bringing with you *(the receipt for security deposit together with) the necessary documents in accordance with the DEVB TCW No. 7/2014.

The Engineer for this Contract will be (title only), (address) who will write to you separately regarding the delegation of authority to the Engineer's Representative. As stipulated in the attached letter from the Engineer ref. (letter reference) of (date), the date for commencement of the Works shall be on (date).¹

You are to submit to the Engineer the programme as required by Clause 16 of the General Conditions of Contract and *the Safety Plan in accordance with Special Condition of Contract Clause

With reference to Clause 3 of the General Conditions of Contract, in-principle consent is hereby granted for the assignment of the Contract to a licensed bank in Hong Kong subject to formal execution of the deed of assignment in the standard form as shown in Appendix 7.48 of the Project Administration Handbook for Civil Engineering Works (2018 Edition). If the aforesaid standard form of the deed is not used in its entirety, separate approval of the form should be sought from the Employer. Please draw the attention of the prospective assignee that this consent is given on the basis that no reliance has been placed on any information from the Employer nor have any representations or warranties been given by the Employer on the Contractor's financial status. For the avoidance of doubt, you are not required to submit a separate application to the Employer unless otherwise requested by the Employer. Notwithstanding the aforesaid, the Employer reserves all rights and powers including but not limited to the powers to revise or revoke the in-principle consent, require submissions of further justifications and information, and/or refuse any amendment to the standard form of the deed.

If your Partnership Agreement or Articles of Association in any way differs, with respect to execution of Articles of Agreement, from the information you last supplied to the Development Bureau you must correct this information at least seven days before the date given for executing the Articles of Agreement.

Yours faithfully,

¹ This paragraph should normally be used. If the date for commencement of the Works cannot be determined at the time of contract award, the following paragraph should be used instead :

"The Engineer for this Contract will be (title only), (address) who will write to you separately regarding the delegation of authority to the Engineer's Representative and the date for commencement of the Works."

The wording of the sample letter of acceptance is based on General Conditions of Contract for Civil Engineering Works (1999 Edition) and should be adjusted if other form of contract (e.g. NEC) is adopted.

.....
(Designation of officer who would sign
the contract on behalf of Government)

c.c. without enclosure

Secretary, Central Tender Board / Public Works Tender Board
Director of the Managing Department for the relevant category
Director of Audit
Ch TA, DEVB or TLB
Commissioner for Labour
Director of Immigration
Departmental Headquarters/Office Headquarters
Senior Engineer/Contract Adviser
The Engineer

- * Delete where inappropriate
- + The words in square brackets should be added where the Special Conditions of Tender have included a clause on reduction of Contingency Sum and notification in writing referred to in sub-clause (1) of the Special Conditions of Tender Clause XX on reduction of Contingency Sum has been issued by the Employer/Engineer designate.
- # This paragraph should normally be included in the Letter of Acceptance to be issued. Under exceptional circumstances and in order to safeguard Government's interests, relevant Head of Department may exercise his discretion to delete this paragraph. Please also see Section 21.3 of PAH Chapter 7 and SDEV's memos ref. (0348H-01), (03969) and () in DEVB(W) 510/33/02 dated 3.1.2020, 12.5.2021 and 10.3.2022 respectively.

**APPENDIX 6.18 SAMPLE LETTER TO UNSUCCESSFUL TENDERERS
(Ref.: ETWB TCW No. 42/2002)**

(Contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

Further to my letter of, I regret to advise that your tender has not been accepted, and the contract has been awarded to

For the purpose of administration of the List of Approved Contractors for Public Works*/List of Approved Suppliers of Materials and Specialist Contractors for Public Works*, your tender is regarded as **

- ** a competitive tender
- ** a non-competitive tender as it is more than 25% above the average of tenders received for the contract
- ** an invalid tender because (describe briefly the reasons why it is considered invalid)

@ In accordance with Paragraph 7.4.1 of Chapter 6 of the Project Administration Handbook for Civil Engineering Works (PAH), we provide the following information for your reference:

Description	Highest Value/Score	Your Score
Awarded contract sum [#]	\$	-
Technical score of the successful tender*		
Highest score attained for each quality attribute in tenders submitted in this exercise*		
(a) Contractor's experience		
(b) Contractor's past performance (technical)		
(c) Contractor's past performance (general obligation)		
(d) Contractor's resources		
(e) Contractor's technical ability		
(f) (add in any other items in the marking scheme)		

@ In accordance with Paragraph 7.4.1, 7.4.2 and Appendix 6.28 of Chapter 6 of the PAH, we will, at your request, conduct a debriefing in an informal manner with you or your representatives (no more than 3 persons). If you wish to have a debriefing, please lodge your request in writing within 3 weeks from the date of this letter. You are also required to state expressly in your request your agreement to abide by the conditions and ground rules stipulated in this letter. Your request will not be entertained if you fail to do so or refuse to abide by the conditions and ground rules. With a view to enabling us to better prepare for the debriefing session, you are requested to provide a list of specific items related to this tender exercise which you would like our feedback.

@ The debriefing session shall not be used as an opportunity to lodge appeal/complaint against the award of the works contract. You should also note that our decision on the award of the contract is final and the debriefing cannot be used to change the choice of contractor nor to re-open the selection procedure. The main purpose of a debriefing session is for us to provide feedback to you on any shortcomings of your tender so as to enable you to improve your competitive performance in future tender exercises. Please also note the following ground rules for the debriefing, if held:

- (a) the debriefing will be informal;
- (b) you will be told of the perceived strengths and weaknesses of your tender and your responses will be noted;
- (c) the merits of other bids, including the winning bid, will not be discussed;
- (d) the debriefing is not to be taken as a means or an opportunity for you to lodge appeal or complaint against the bidding result;
- (e) tape recording during the debriefing will not be allowed;
- (f) request for records of the debriefing or agreement on any notes prepared by either party will not be entertained; and
- (g) you shall not use the information obtained during the debriefing for any judicial or administrative proceedings.

Last but not least, your effort in submitting the tender for this Contract is very much appreciated.

Yours faithfully,

.....
(Designation of the Engineer for the Contract)

For tender evaluated using the formula approach (DEVB TCW Nos. 4/2014, 4/2014A and SDEV's memo ref. () in DEVB(W) 546/84/01 dated 9.7.2021 10.11.2023 Amd No. 2/2024 refer), it is only required to give the awarded contract sum; the performance rating of the winning tenderer is NOT required to be made known.

* Delete where appropriate

** Include whichever is relevant; if the tender is invalid, it is not necessary to state whether it is competitive or non-competitive.

@ In case of an invalid tender, the 3rd, 4th and 5th paragraphs should be deleted. The 4th and 5th paragraphs shall be deleted if a debriefing is not to be conducted. In case of a consultants-managed contract, the 4th and 5th paragraphs shall be included in a separate letter to be sent by the procuring department.

APPENDIX 6.19 SAMPLE MEMO FOR THE REPORTING OF TENDERING PERFORMANCE

RESTRICTED (TENDER)

MEMO	
<i>From</i> <i>Ref.</i> <i>in</i> <i>Tel. No.</i> <i>Fax. No.</i> <i>Date.</i>	<i>To</i> Secretary for the MRC concerned# <i>(Attn.:</i> <i>)</i> <i>Your</i> <i>in</i> <i>dated</i> <i>Fax. No.</i> <i>Total Pages</i>

Contract No. _____

 (Title)

Reporting of Tendering Performance

Tenders have been called for the above contract. Details are given below for your record:

- (a) Predominant category of works – (insert the category of works concerned)
- (b) Tenders were invited by *gazette notification / invitation on Internet to contractors on the List of Approved Contractors for Public Works in Group _____ for the Category of (insert the category of works concerned) .
- (c) Tender invitation date : _____
 Tender closing date : _____
- (d) The (total no. of tenders) tenders received are listed below in descending order of their combined price and *technical/performance score based on a 60/40 or 50/50 weightings:

Tenderer	Group status	Overall score	Corrected tender price	Technical score
----------	--------------	---------------	------------------------	-----------------

- (e) *None of tenders was withdrawn / _____ tenders was/were withdrawn.
- * (f) The tender submitted by _____ is non-conforming because _____.
- * (g) The tender submitted by _____ is non-competitive as its tendered price is more than 25% above the average of all the tenders received.

- * (h) Following the decision of the *Central Tender Board / Public Works Tender Board at its meeting on ___(date) / Director of _____ in the _____ Tender Committee at its meeting on ___(date) , the contract was awarded to _____ with the *highest combined price and *technical/performance score / second highest combined price and *technical/performance score.
- * (i) The tender exercise is cancelled under the circumstances as stipulated under SPR 380. (The reporting department shall still be required under Para. 7.7 of Chapter 6 of the PAH for uploading the tendering performance under item (i) below even if the tender exercise is cancelled.)
- (j) The relevant tendering performance *has been/will be uploaded onto the Contractor Management Information System (CMIS).

.....
(Designation of Chief Engineer/Regional Office Head)

#	CEDD	- all contracts where contractors belonging to Port Works Category are invited to tender - all contracts where contractors belonging to Site Formation Category are invited to tender
	HyD	- all contracts where contractors belonging to Roads & Drainage Category are invited to tender
	WSD	- all contracts where contractors belonging to Water Works Category are invited to tender
	ArchSD	- all contracts where contractors belonging to Buildings Category are invited to tender

* Delete where inapplicable

APPENDIX 6.20 DETAILS OF INSURANCE POLICIES

Type of Policy: *General/Specific

Insurance Policy No.:
issued by :
covering period from to

for Contract No.:

Brief particulars & special conditions:

.....
.....
.....
.....
.....

Examined by
(Designation of the Engineer for the Contract)

* Delete where inapplicable

APPENDIX 6.21 LETTER OF ACKNOWLEDGEMENT OF RECEIPT OF CONTRACTOR’S DOCUMENTS

(Contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

This is to acknowledge receipt of the following documents which you passed to me on

*(a) *Original/certified true copies of the insurance policy(ies) required under the Contract including Policy(ies) No.; and

*(b) *Original/certified true copies of the surety bond in the sum of \$.....

Yours faithfully,

.....
(Designation of the Engineer for the Contract)

* Delete where inapplicable

APPENDIX 6.22 SAMPLE MEMO TO DEPARTMENTAL HQ FOR SUBMISSION OF CONTRACT DOCUMENTS

BY HAND

MEMO	
<i>From</i> <i>Ref.</i> <i>in</i> <i>Tel. No.</i> <i>Fax. No.</i> <i>Date.</i>	<i>To</i> (Attn. <i>Your</i> <i>in</i> dated <i>Fax. No.</i> <i>Total Pages</i>

Contract No. _____

 (Title)

Submission of Contract Documents

I enclose herewith for your safe custody the original signed contract documents including drawings for the above Contract.

2. Also enclosed for your distribution and retention are:
- (i) three certified true copies of the contract documents without drawings (i.e. one hardcopy and two softcopies of the certified true copies of contract documents) Amd No. 1/2023;
 - * (ii) *original/certified true copies of the insurance policies and premium receipts; and
 - * (iii) *original/certified true copies of the surety bond.

.....
 (Designation of Chief Engineer/Regional Office Head)

* delete where inapplicable

Note: This sample memo is not used for HyD and DSD. See Section 10.

APPENDIX 6.23 SAMPLE LETTER TO SUCCESSFUL NOMINATED SUB-CONTRACTOR

(Nominated Sub-contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

Nominated Sub-contract for

You have been nominated by the Government of the Hong Kong Special Administrative Region for the execution of the above work and your tender dated (of the amount \$.....) will be forwarded shortly to the Main Contractor, Messrs

On acceptance of your tender by the Main Contractor, you will be a Nominated Sub-contractor within the terms of the Main Contract and will be required to enter into a formal Sub-contract with the Main Contractor who will make the necessary arrangements with you in consultation with the Engineer for the Main Contract, (Designation and Address) .

Payments for the work will be included in the certificates issued under the Main Contract and will be made to you in accordance with the terms of the Main Contract.

Yours faithfully,

.....
(Designation of Government Officer authorized
to sign Main Contract on behalf of Government)

c.c. The Engineer for the Main Contract

APPENDIX 6.24 SAMPLE LETTER TO MAIN CONTRACTOR ON ACCEPTANCE OF NOMINATED SUB-CONTRACTOR

(Main contractor)

(Address)

Dear Sirs,

Contract No. :

Title :

Nominated Sub-contract for

I enclose herewith a copy of letter ref. dated addressed to Messrs who have been nominated by the Government of the Hong Kong Special Administrative Region under the terms of the Main Contract.

Sub-contract documents for the above work containing tender of Messrs dated are also enclosed herewith.

You are hereby instructed to enter into a sub-contract with Messrs before *(date) using the forms of Sub-contract provided by the Government of the Hong Kong Special Administrative Region.

A certified true copy of the executed Sub-contract should be forwarded to me and to the Government of the Hong Kong Special Administrative Region for retention.

Yours faithfully,

.....
(The Engineer for the Main Contract)

c.c. Designation of Government Officer authorized to sign the Main Contract

* Insert the date of expiry of the tender validity period for the Nominated Sub-contractor's tender

APPENDIX 6.25 SAMPLE MEMO TO TENDER BOARDS FOR DETAILS OF THE CONTRACT AWARDED

<u>MEMO</u>	
<i>From</i> <i>Ref.</i> <i>in</i>, <i>Tel. No.</i> <i>Fax. No.</i> <i>Date.</i>	<i>To</i> Secretary of Relevant Tender Board (Attn.) <i>Your</i> <i>in</i>, dated <i>Fax. No.</i> Total Pages

Contract No. _____

 (Title)

Notice of Award of Contract

I refer to your memo ref. _____ dated _____
 _____ . I confirm that the contract has been awarded by this
 Department on _____ with the details at Annexes A and B.

.....
 (Designation of Chief Engineer/Regional Office Head)

* Delete where inapplicable

Annex A

Tender Reference	Tendering Procedure ¹	Particulars ²	Contractor(s) & Address(es) ³	Item/Quantity ⁴	Amount ⁵

Notes:

1. *Open, selective, prequalified, limited as appropriate.*
2. *Tender subject.*
3. *Name(s) and address(es) of the successful tenderer(s).*
4. *Quantity of products or services covered by the contract.*
5. *The value of the contract awarded to the successful tenderer. In case of a term contract, the estimated contract value should be stated.*

Annex B

<i>招標編號</i>	<i>招標種類</i>	<i>項目</i> ²	<i>承包商/承造商 名稱及地址</i> ³	<i>數量</i> ⁴	<i>價值(\$)</i> ⁵

備註：

- 1 從列選其合適者 - 公開(*open*), 選擇性(*selective*), 資格預審(*prequalified*), 局限性(*Limited*)。
- 2 招標項目名稱。
- 3 中標者的名稱及地址(如中標者沒有中文名稱或地址, 此欄用英文填寫亦可)。
- 4 貨品的數量或提供服務的年期。
- 5 已批准訂立的合約的價值, 如為定期合約則只須列出預計的合約價值。

APPENDIX 6.26 (NOT USED)

APPENDIX 6.27 CORRECTION RULES FOR TENDER ERRORS (Ref.: ETWB TCW No. 41/2002)

Section 1 - General

- 1.1 For errors which have been specifically addressed in the general or special conditions of tender, the errors shall be dealt with strictly in accordance with the relevant conditions of tender. The following rules shall only apply where the errors have not been specifically addressed in the conditions of tender.**
- 1.2 Subject to paragraph 1.1 above, where a correction rule provided in Section 2 below is applicable, the errors shall be corrected in accordance with that rule.**
- 1.3 In the event no written correction rule is applicable,**
- (i) where ambiguity as to the tenderer's true intention exists, it shall be construed by the tender examiner by reference to the best practice or his best judgement; and**
 - (ii) where errors relate to factual information and there is no room for manipulation by a tenderer by virtue of subsequent correction; or where the correction of such errors would not change the tender in substance or the quality of the tender which would give the tenderer an advantage over the other tenderers, the concerned tenderers may be permitted to correct the errors. In other cases, departments shall assess a tender with the errors as submitted.**
- 1.4 For the purposes of these rules, errors include omissions.**

Section 2 - Errors in the pricing document

- 2 If the following error(s) in the pricing document are found after the opening of tenders, correction shall be made as follows, depending on the type of contract being tendered:**

(1) Lump Sum Contracts with Bills of Quantities

- (a) The tender sum stated on the Form of Tender shall remain unchanged irrespective of any corrections made hereinafter. If there is a discrepancy between the amount in "words" and in "figures", the one that agrees with the figure stated in the Grand Summary of the Bills of Quantities shall be taken as the tender sum. If neither one agrees with the figure stated in the Grand Summary of the Bills of Quantities, the amount in "figures" shall be taken as the tender sum. Where either the amount in "words" or the amount in "figures" is left blank or illegible, the remaining one shall be taken as the tender sum. If the amount in "words" and the amount in "figures" are both left blank or illegible, the tender is invalid.**

- (b) If there are errors in the Bills of Quantities, they shall be corrected as follows:**

- (i) if one or more pages of the Bills of Quantities are found missing, subject to sub-paragraph (ii) below, the rates for all items in the missing page(s) shall be marked as zero and the costs shall be deemed to have been allowed for in rates entered elsewhere in the Bills of Quantities, and
 - (ii) where the Bills of Quantities contain a Provisional Sum, a Contingency Sum, a Prime Cost Sum, any other pre-priced item or any combination of them and the tenderer fails to include any or all of them correctly in his Bills of Quantities, then such sum (or sums) shall be correctly reinstated in the Bills of Quantities; and
 - (iii) errors in the casting of cash columns shall be corrected; and
 - (iv) the extension may be amended to agree with the quantity and rate or (dependent on the judgement of the tender examiner) the rate may be amended to agree with the quantity and the extension in the cash column but in no case will the alteration of both rate and cash extension be permitted; and
 - (v) indistinct rates shall be clarified to agree with the quantity and the extension in the cash column.
- (c) Where no extension amount and no rate has been made against any item or quantity in the Bills of Quantities it shall be deemed that the cost of the item or quantity has been allowed for in rates entered elsewhere in the Bills of Quantities and the rate shall therefore be marked as zero.
- (d) Should there be a tender addendum introducing changes to the Bills of Quantities but the changes have not been incorporated into the Bills of Quantities by a tenderer, then the changes as required by the addendum shall be incorporated into the tenderer's Bills of Quantities and the rates for those new items or modified items shall be determined as follows:

Where new item is introduced	Rate for the new item shall be marked as zero
Where the item description and/or quantity is changed	If a rate has been entered against the original item of work, the same rate shall be used
Where an item is deleted	That item shall be deleted in accordance with the addendum
Where the measurement unit is modified	If a rate has been entered against the original item of work, the rate shall be adjusted to fit in with the new unit

- (e) Any sum entered against an Adjustment Item (the Adjustment Item may either be printed in the tender documents or added by the tenderer) in the General/Grand Summary of the Bills of Quantities shall not be altered regardless of corrections made in accordance with (1)(b), (c) and (d) provided that the sum (whether addition or deduction) entered against the Adjustment Item does not exceed 10% of the tender sum prior to the application of that Adjustment Item. If the sum is outside the $\pm 10\%$ limits, the inserted positive sum exceeding the maximum positive limit shall be revised to a sum equal to the tender sum divided by 11. Likewise the inserted negative sum exceeding the maximum negative limit shall be revised to a sum equal to the tender sum divided by 9. If the Adjustment Item is left blank it shall be deemed to be zero. The total of the Bills of Quantities corrected in accordance with (1)(b), (c), (d) and (e) is hereinafter referred to as the corrected total of the Bills of Quantities.
- (f) After correcting all the errors in accordance with (1)(b), (c), (d) and (e), the difference between:
- (i) the tender sum minus the total of all Provisional Sums, the Contingency Sum, Prime Cost Sums (but not profit and attendance on them), any other pre-priced items and the Adjustment Item, and
 - (ii) the corrected total of the Bills of Quantities minus the total of all Provisional Sums, the Contingency Sum, Prime Cost Sums (but not profit and attendance on them), any other pre-priced items and the Adjustment Item
- shall be calculated as a plus percentage of the sum at (1)(f)(ii) if (1)(f)(i) is greater than (1)(f)(ii) or as a minus percentage of the sum at (1)(f)(ii) if (1)(f)(i) is less than (1)(f)(ii).
- (g) Subject to (1)(h), the plus or minus percentage will be applied to the tendered rates including those corrected under (1)(b)(iii) and (iv) and including Preliminaries/Preambles but excluding all pre-priced items and the Adjustment Item.
- (h) If the absolute value of the percentage calculated in accordance with (1)(f) is less than 0.25%, no adjustment shall be made.
- (i) For any Prime Cost Sum, the plus/minus percentage shall only be applied to the profit and attendance element and not the Prime Cost element.
- (j) After correcting errors in accordance with the foregoing rules and if the plus or minus percentage calculated in accordance with paragraph (1)(f) is equal to or more than 0.25%, the General/Grand Summary of the Bills of Quantities shall be endorsed as follows:

'In accordance with Appendix 6.27 of Chapter 6 of the Project

Administration Handbook for Civil Engineering Works, all the rates and prices inserted by the tenderer in these Bills of Quantities [except those pre-priced items and the Adjustment Item] shall be corrected by ...% for all purposes for which those rates and prices may be used under the Contract.'

Note: [] delete where inappropriate

No endorsement is necessary where the plus or minus percentage calculated in accordance with paragraph (1)(f) is less than 0.25%.

(2) Lump Sum Contracts based on Specification and Drawings with Schedule of Rates and Approximate Quantities submitted by Tenderers

The same principle and relevant procedures as in (1) shall apply except that the Schedule of Rates and approximate quantities submitted by the tenderer may be adjusted as necessary to reflect the approximate quantities of work to be carried out so that the total value so calculated is equal to the tender sum, with the intent that resultant rates may be used for valuing variations in accordance with the terms of the Contract. Adjustment of quantities and rates should only be necessary in the event of arithmetical errors or when the quantities are grossly in error.

(3) Remeasurement Contracts

- (a) Under no circumstances can the tendered rates be changed.**
- (b) If errors are found in the Bills of Quantities, they shall be corrected as follows.**
 - (i) Errors in extensions and casting of page totals shall be corrected and the rectified amounts carried to the General/Grand Summary.**
 - (ii) Where there is an extension amount but no rate or an illegible rate has been inserted against any quantity in the Bills of Quantities the rate is deemed to be the amount divided by the quantity as rounded off to the nearest cent.**
 - (iii) Where there is no extension amount or an illegible amount and no rate or an illegible rate has been inserted against any item or quantity in the Bills of Quantities it shall be deemed that the cost of the item or quantity has been allowed for in rates entered elsewhere in the Bills of Quantities and the rate shall therefore be marked as zero.**
 - (iv) If one or more pages of the Bills of Quantities are found missing, subject to sub-paragraph (vi) below, the rates for all items in the missing page(s) shall be marked as zero and the costs shall be deemed to have been allowed for in rates entered elsewhere in the Bills of Quantities.**

- (v) Should there be a tender addendum introducing changes to the Bills of Quantities but the changes have not been incorporated into the Bills of Quantities by a tenderer, then the changes as required by the tender addendum shall be incorporated into the tenderer's Bills of Quantities and the rates for those new items or modified items shall be determined as follows:

Where new item is introduced	Rate for the new item shall be marked as zero
Where the item description and/or quantity is changed	If a rate has been entered against the original item of work, the same rate shall be used
Where item is deleted	That item shall be deleted in accordance with the addendum
Where the measurement unit is modified	If a rate has been entered against the original item of work, the rate shall be adjusted to fit in with the new unit

- (vi) Where the Bills of Quantities contain a Provisional Sum, a Contingency Sum, a Prime Cost Sum, any other pre-priced item or any combination of them and the tenderer fails to include any or all of them correctly in his Bills of Quantities, then such sum (or sums) shall be correctly reinstated in the Bills of Quantities.
- (vii) Any sum entered against an Adjustment Item (the Adjustment Item may either be printed in the tender documents or added by the tenderer) in the General/Grand Summary of the Bills of Quantities shall, subject to sub-paragraph (viii) below, not be altered regardless of corrections made in accordance with (3)(b)(i) to (vi). If the Adjustment Item is left blank it shall be deemed to be zero.
- (viii) If the sum entered against an Adjustment Item is outside the adjustment limits which are $\pm 10\%$ of the grand total of the Bills of Quantities (corrected in accordance with the rules above as necessary) before the addition or deduction of the Adjustment Item, the inserted positive sum exceeding the maximum positive limit shall be adjusted to such maximum positive limit (i.e. $+10\%$) and the inserted negative sum exceeding the maximum negative limit shall be adjusted to the maximum negative limit (i.e. -10%).
- (c) After correcting all the errors in the manner abovementioned, the tender sum shall be corrected to the corrected grand total of the Bills of Quantities.

APPENDIX 6.28 GUIDELINES AND PROCEDURES FOR FEEDBACK AND DEBRIEFING TO UNSUCCESSFUL BIDDERS FOR WORKS CONTRACTS
(Ref.: ETWB TCW No. 42/2002)

The unsuccessful bidders should be informed of the following ground rules for the debriefing:

- (a) the debriefing will be informal;
- (b) the bidders will be told the perceived strengths and weaknesses of their bidding submissions and their responses will be noted;
- (c) the merits of other bids, including the winning bid, will not be discussed;
- (d) the decision on the award of the works contract is final thus the debriefing session shall not be taken as a means or an opportunity for the bidder to lodge appeal or complaint against the bidding result of the works contract;
- (e) tape recording during the debriefing will not be allowed;
- (f) request for records of the debriefing or agreement on any notes prepared by either party will not be entertained, and
- (g) The bidder shall not use the information obtained during the debriefing for any judicial or administrative proceedings.

2. We should make it clear to the bidders that the debriefing should not be used to change the choice of contractor nor to re-open the selection procedure. In case if a bid challenge has been lodged to the award of the works contract under the World Trade Organisation Agreement on Government Procurement, the procuring department shall hold up the debriefing until the bid challenge is settled.

3. Any request from an unsuccessful bidder who fails to expressly agree or refuses to be bound by the ground rules shall not be entertained.

4. Upon receipt of a request for debriefing, the procuring department shall fix the date, time and place of the debriefing. Separate debriefing session shall be arranged for individual bidder. The debriefing shall be conducted by a team led by an officer of the rank of senior professional or above from the procuring department. At least one member of the team should have been a member of the assessment panel or have assisted directly in evaluating the bidding documents. For a contract managed by consultants, a senior staff member from the consultant's project team for the project concerned should also be included in the debriefing team. If it is envisaged that the consultant's staff shall be required to serve in any debriefing exercise, the requirement should be spelt out in the consultancy brief concerned. The procuring department shall determine the team size and flexibility is allowed to assign different team members to conduct different debriefing sessions under the same contract. To allow exchange of views in a casual manner, the bidder shall be requested to limit the number of representatives attending the debriefing to three.

5. Each debriefing session should be carefully planned with due regard to the weaknesses and strengths of the bidder. In general, discussion should be limited to the information submitted by the bidder without comparison with other submissions. Where practicable, the bidder should be informed frankly, honestly and tactfully of the weaknesses and strengths of his submission which shall be measured against established

practices, general experience of the department or standards in the industry. Any information that would impede the law enforcement or otherwise be contrary to public interest or would prejudice the legitimate commercial interest of particular enterprises, public or private, or might prejudice fair competition between contractors should not be released. The discussion during the debriefing should be limited to the issues/questions raised by the bidders as mentioned in the first paragraph above. If necessary, some topics as suggested in Annex 1 can also be discussed. The departments shall also consider the appropriate level of details to be discussed. Nonetheless, care should be exercised to demonstrate that judgments are made only against the assessment criteria made known to the bidders.

6. The debriefing should be conducted as an informal discussion, and not in writing. Nevertheless, the debriefing team should record the results and conclusions of the debriefings for internal reference in case follow-up actions are needed for improving the process of similar procurements and debriefings. Such notes shall not be sent to the bidder. The bidder is free to take notes for himself. However, request for records of the debriefing or agreement on any notes prepared by either party shall be refused. Tape recording by the bidder shall also be refused as it would hinder a free exchange of views between the parties and thus defeat the purpose of the debriefing.

Annex 1**Examples of Debriefing Topics for Works Contracts**

- 1. Cost – discussion on the competitiveness of the contractor's tendered sum in general terms (prices and rates of other tenderers other than the awarded sum shall not be disclosed)**
- 2. Contractor's experience**
 - a. Relevant experience in contracts of similar type or size**
 - b. Relevant local experience (if it is essential for the delivery of the project)**
- 3. Contractor's past performance (technical)**
 - a. Workmanship**
 - b. Progress**
 - c. Claims attitude**
- 4. Contractor's past performance (general obligations)**
 - a. Site safety**
 - b. Environmental performance**
 - c.. Care of utilities and the general public**
 - d. Compliance with other enactments**
- 5. Contractor's resources**
 - a. Managerial and technical staff**
 - b. Plant and equipment**
- 6. Contractor's technical ability**
(this may include method statement, quality assurance plan, site safety policy, works programme, extent of subcontracting and control mechanisms for subcontractors etc.)

APPENDIX 6.29 SAMPLE LETTER TO TENDERER WITH UNREASONABLY LOW BIDS

To: the Tenderer

Dear Sirs,

Contract No. and Title

I refer to your tender for the captioned contract dated DD/MM/YYYY.

Your tender price is considered unreasonably low and it raises doubts as to whether you are capable of fulfilling the terms of the Contract. [Procuring departments shall also cite the prices or unit rate of any major items which are considered as unreasonably low, or other specific issues in relation to the tender price that the procuring department considers relevant in casting doubt on the tenderer's capability.]

You are invited to provide clarification or justification or any information which may be helpful in explaining why the tender price is not unreasonably low and how you are able to fulfil the contract at such a low price on or before DD/MM/YYYY.

Please note that only clarification or justification or any information provided in response to the third paragraph above can be submitted. You are not allowed to introduce any change to the tender.

Please note that this letter shall not be construed as either an acceptance or a rejection of your tender. All tenders are still under consideration and the Government of the Hong Kong Special Administration Region does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the assessment of the tenders is based on a marking scheme or formula approach, the tender has the highest overall score.

Yours faithfully,

(The Engineer/Architect/Surveyor/Supervising Officer/Maintenance Surveyor designate)

APPENDIX 6.30 GUIDELINES ON EXECUTION OF PUBLIC WORKS CONTRACTS AS A DEED
(Ref.: DEVB TCW No. 7/2014)

A. EXECUTION BY GOVERNMENT

Checklist	Remarks
<ul style="list-style-type: none"> • The contract shall be signed on behalf of the Government by an officer at directorate level unless the Secretary for Financial Services and the Treasury has authorized otherwise. • Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	<p>See paragraph 505(e) of the Stores and Procurement Regulations.</p>

Sample attestation clause in a deed for use by Government.¹

SIGNED, SEALED and DELIVERED by)
 the Employer by)
 [insert name and appointment of)
 officer])
) in the [Signature of the)
) officer]¹)
 in the presence of:)
)
)
)
 [Name])
 [Occupation])
)
 [Address])



¹ The italic parts are not part of the execution clause. They are for guidance or information only.

B. EXECUTION BY UNINCORPORATED BODY

Checklist	Remarks
<p>I. Sole Proprietor</p> <ul style="list-style-type: none"> ● If it has not been done during tender stage, obtain a certified copy each of the Business Registration Certificate and the extract of information on the business register from the Commissioner of Inland Revenue. Use the information contained in the certified copies to check against those stated in the Articles of Agreement. ● If execution is pursuant to a power of attorney, ask for the production of the original power of attorney. If the power of attorney is specifically granted for execution of the contract, keep the original power of attorney or a certified copy thereof in the file. If the power of attorney is a general one, keep a certified copy of it in the file. ● Obtain other relevant documents, e.g. ask for production of identity card for verification of the identity of the signatory. Make a note on file that such verification has been made. ● Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	<p>See Stores and Procurement Regulation 505.</p> <p>See paragraph D below for execution of the contract pursuant to a power of attorney and proper certification of a copy of the power of attorney.</p>

Sample attestation clause in a deed for use by a sole proprietor.¹

SIGNED, SEALED and DELIVERED)
 by [insert name of sole proprietor])
 trading as [name of the firm])
 in the presence of:)
)
)
)
)
 [Name])
 [Occupation])
 [Address])

[Signature of the sole proprietor]¹



¹ The italic parts are not part of the execution clause. They are for guidance or information only.

<p>II. Partnership</p> <ul style="list-style-type: none"> • If it has not been done during tender stage, obtain a certified copy each of the Business Registration Certificate and the extract of information on the business register from the Commissioner of Inland Revenue. Use the information contained in the certified copies to check against those stated in the Articles of Agreement. • If execution is pursuant to a power of attorney, ask for the production of the original power of attorney. If the power of attorney is specifically granted for execution of the contract, keep the original power of attorney or a certified copy thereof in the file. If the power of attorney is a general one, keep a certified copy of it in the file. • Obtain other relevant documents, e.g. ask for production of identity cards for verification of the identity of the signatories. Make a note on file that such verification has been done. • The contract shall be executed by all the partners. • Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	<p>See Stores and Procurement Regulation 505.</p> <p>See paragraph D below for execution of the contract pursuant to a power of attorney and proper certification of the power of attorney.</p>
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Sample attestation clause in a deed for use by partners of a partnership.¹

SIGNED, SEALED and DELIVERED by)
 []² and)
 []²) *[Signature of the*
 being the partners of [name of Contractor]) *individual partner]¹* (L)
 in the presence of:)
) *[Signature of the*
) *individual partner]¹* (L)
)
 [Name])
 [Occupation])
 [Address])

¹ The italic parts are not part of the execution clause. They are for guidance or information only.
² Insert names(s) of partners. Add more names if there are more partners.

C. EXECUTION BY COMPANY INCORPORATED IN HONG KONG

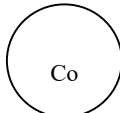
Checklist	Remarks
<ul style="list-style-type: none"> • Obtain a copy of the Certificate of Incorporation of the company from the Companies Registry if this is the first time a works department deals with the company. • Obtain the registered office address of the company from the Companies Registry and check on its registered office address against that stated in the Articles of Agreement. • Obtain a copy of the latest Annual Return from the Companies Registry or obtain a certified copy from the company and check the identity of the directors and the secretary. • Obtain a copy of the Articles of Association (and the relevant Special Resolution if any amendment was made to the Articles of Association) from the Companies Registry or obtain a certified copy from the company. • If the company executes the Contract with a common seal, check the Articles of Association to ensure that the requirements on sealing and signing of the Contract are in accordance with the relevant provision in the Articles of Association on use of the seal. If the Articles of Association require the authorization of a board resolution before (a) its common seal can be used and/or (b) a person can sign a document with the common seal affixed or witness and attest the affixing of the common seal, obtain the original board resolution or a certified copy thereof from the company and check the following: <ol style="list-style-type: none"> 1. sufficiency of quorum in accordance with the provisions of the Articles of Association; 2. approval to affix the common seal to the contract; and/or 3. the person authorized to sign the contract with the common seal affixed or witness and attest the affixing of the common seal. • If the company executes the Contract without a common seal: <ol style="list-style-type: none"> (a) In the case of a company with only one 	<p>See Section 127 of the Companies Ordinance (Cap. 622)</p>

<p>director, by having the contract signed by the director on the company's behalf.</p> <p>(b) In the case of a company with 2 or more directors, by having the contract signed on the company's behalf by:</p> <p>(i) The 2 directors or any 2 of the directors; or</p> <p>(ii) Any of the directors and the company secretary of the company.</p> <p>N.B. Please ensure that the Contract is also expressed to be executed by the company.</p> <ul style="list-style-type: none"> • If execution is pursuant to a power of attorney, ask for production of the original power of attorney. If the power of attorney is specifically granted for execution of the contract, keep the original power of attorney or a certified copy thereof in the file. If the power of attorney is a general one, keep a certified copy of it in the file. • Obtain other relevant documents, e.g. ask for production of identity card(s) for verification of the identity of the signatory(ies). Make a note on file that such verification has been made. • Check that the common seal is a metallic seal with the name of the company engraved in legible form. • Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	<p>See Section 127(5) of the Companies Ordinance (Cap. 622)</p> <p>See paragraph D below for execution of the contract pursuant to a power of attorney and proper certification of the power of attorney</p> <p>See section 124(2) of the Companies Ordinance (Cap. 622).</p>
--	--

Sample attestation clause in a deed for use by company incorporated in Hong Kong:¹

Alternative A (with Common Seal)¹

Executed and delivered)
 as a deed and the COMMON SEAL)
 of [name of Contractor])
 was affixed in the presence of)
 [] its [director(s)] or) *[Signature of the*
 director and secretary or person(s) authorized to) *director(s) etc]¹*
 sign the contract by its board of directors)²)
 in the presence of a witness:)
)
)
 [Name])
 [Occupation])
 [Address])



Alternative B (without a Common Seal)¹

Executed and delivered)
 as a deed)
 by [name of Contractor])
 acting through)
 [] (its sole director)) *[Signature of the*
 or) *director(s) etc]¹*
 [] and [] (its directors))
 or)
 [] (its director) and)
 [] (its company secretary)²)
 in the presence of a witness:)
)
)
 [Name])
 [Occupation])
 [Address])

¹ The italic parts are not part of the execution clause. They are for guidance or information only.

² Select the correct expression for use. If none is applicable, insert an appropriate expression.

D. EXECUTION UNDER A POWER OF ATTORNEY

Checklist	Remarks
<ul style="list-style-type: none"> • Check the operative part to ensure that the attorney has sufficient authority to sign the contract in question. • Seek confirmation that the power of attorney has not been revoked. • Check that the power of attorney was executed in deed form. • Verify the identity of the attorney. Make a note in the file that such verification has been made. • Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	<p>Powers of attorney are strictly construed, i.e. any ambiguity will be construed in favour of the grantor and against the third party.</p> <p>But see the protection of third persons where power of attorney is revoked as stipulated in section 5(2) of the Powers of Attorney Ordinance. Seek legal advice if in doubt.</p> <p>Authority to execute a deed must in turn be granted by deed.</p>

Sample attestation clause in a deed for use by an attorney:¹

SIGNED, SEALED and DELIVERED by)
 [name of Contractor] by [])
 his/her/its² attorney under power of attorney)
 dated [])
)
in the presence of:)
)
)
 [Name])
 [Occupation])
 [Address])

[Signature of the attorney]¹



¹ The italic parts are not part of the execution clause. They are for guidance or information only.
² Delete as appropriate.

The following is a sample certification of a copy of the power of attorney by either the donor of the power or a solicitor. The certification should appear at the end of each page of the copy of the power of attorney. The solicitor who certifies the copy must be a practising solicitor and not be suspended from practice at the material time.

(1) Where the power of attorney consists of one page only:

<p style="text-align: center;"><u>Power of Attorney</u></p> <p style="text-align: center;">[Text of power of attorney]</p> <p style="text-align: center;">I certify that this copy is a true and complete copy of the original power of attorney.</p> <p style="text-align: center;">(Signed) _____ Name [of donor of power or solicitor]</p> <p style="text-align: center;">Date _____</p>
--

(2) **Where the power of attorney consists of two or more pages¹:**

<p style="text-align: center;"><u>Power of Attorney</u></p> <p style="text-align: center;">[Text of power of attorney]</p> <p style="text-align: center;">I certify that this copy is a true and complete copy of the corresponding page of the original power of attorney.</p> <p style="text-align: center;">(Signed) _____ Name [of donor of power or solicitor]</p> <p style="text-align: center;">Date _____</p>
--

¹ The certification must appear on each and every page of the copy of power of attorney.

E. EXECUTION BY COMPANY INCORPORATED IN MAINLAND CHINA

Checklist	Remarks
<ul style="list-style-type: none"> • Obtain a copy of the Certificate of Registration of Oversea Company from the Companies Registry if this is the first time a works department deals with the oversea company. • Ask for the power of attorney. It must be notarised and authenticated by the Ministry of Foreign Affairs of the PRC. Keep the original or a certified copy of it in the file. • Ask for a PRC lawyer's legal opinion on the power of attorney to the effect that the power of attorney was validly executed and that the relevant contract to be executed by the attorney will be legal, valid and binding on the company. Proof of the legal qualification of the PRC lawyer should be obtained. • Obtain other relevant documents, e.g. ask for production of identity card for verification of the identity of the signatory. Make a note in the file that such verification has been made. • Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	<p>See paragraph D above for execution of the contract pursuant to a power of attorney and proper certification of a copy of the power of attorney.</p>

F. EXECUTION BY COMPANY INCORPORATED OUTSIDE HONG KONG


Checklist	Remarks
<ul style="list-style-type: none"> • Obtain a copy of the Certificate of Registration of Oversea Company from the Companies Registry if this is the first time a works department deals with the overseas company. • Ask for the power of attorney. The power of attorney must be attested by a notary public. Keep the original power of attorney or a certified copy of it in the file. • Ask for the legal opinion on the power of attorney from a lawyer qualified to practise in the country where the company was incorporated to the effect that the power of attorney was validly executed and that the relevant contract to be executed by the attorney will be legal, valid and binding on the company. Proof of legal qualification of the lawyer should be obtained. • Apostille is required if the attested documents are from country which is a party to the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. • Legalization of the attested documents at a consulate of the PRC in that place is required if the documents are from countries not a party to the Hague Convention. 	<p>Normally overseas companies execute works contracts through an attorney. See paragraph D above for a sample attestation clause for use by an attorney and proper certification of a copy of the power of attorney.</p> <p>An apostille is a certificate issued by the competent authority of the state from which the attested documents emanate. For example, in UK, the competent authority to issue apostilles is the Foreign and Commonwealth Office.</p> <p>Legalisation refers to the formality by which the diplomatic or consular agents of the country in which a document is to be produced certify the authenticity of the signature, the capacity in which the person signing the documents has acted and, where appropriate, the identity of the seal or stamp which it bears.</p>

<ul style="list-style-type: none">• Obtain other relevant documents, e.g. ask for production of identity card for verification of the identity of the signatory. Make a note in the file that such verification has been made.• Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated.	
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

G. EXECUTION BY UNINCORPORATED JOINT VENTURE

Checklist	Remarks
<ul style="list-style-type: none"> For guidance on execution by each of the participants in the unincorporated joint venture, please refer to paragraphs B to F above, as the case may be. Execution of the contract should be witnessed. The witness should sign and his/her name, occupation and address should be stated. 	

Sample attestation clauses in a deed for use where an unincorporated joint venture:¹

(a) #SIGNED, SEALED and DELIVERED)
 by [name of participant] being a participant)
 of the [name of the unincorporated joint)
 venture])
 in the presence of:) *[Signature of the)* ¹
)
)
)
 [Name])
 [Occupation])
 [Address])

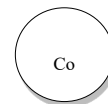
Or

(b) #SIGNED, SEALED and DELIVERED)
 by [name of partner] and [name of partner]³)
 being the partners of [name of participant])
 being a participant of the [name of the)
 unincorporated joint venture])
 in the presence of:) *[Signature of the individual)* ¹
) *[Signature of the individual)* ¹
)
)
)
 [Name])
 [Occupation])
 [Address])

Or

(c) #Executed and delivered as a deed and the
COMMON SEAL of [name of participant])
being a participant of the [name of the)
unincorporated joint venture] was affixed in)
the presence of [] its)
[director(s) or director and secretary or)
person(s) authorized to sign contract by its)
board of directors]²)
in the presence of a witness:)
))
))
.....)
))
[Name])
[Occupation])
[Address])
))

[Signature(s) of the directors etc]¹




Or

(d) #Executed and delivered as a deed by [name)
of participant] being a participant of the)
[name of the unincorporated joint venture])
acting through)
[] (its sole director))
or)
[] and [] (its directors))
or)
[] (its director) and)
[] (its company secretary)²)
))
in the presence of a witness:)
))
))
.....)
))
[Name])
[Occupation])
[Address])
))

[Signature(s) of the directors etc]¹

Or

(e) **#SIGNED, SEALED and DELIVERED by**)
[name of participant] being a participant)
of the [name of the unincorporated joint)
venture] by [)
his/her/its² attorney under power of attorney) *[Signature of the attorney]¹* 
dated [)
in the presence of:)

.....)
[Name])
[Occupation])
[Address])

Notes :

- (a) For use where the joint venture participant is a sole proprietor.
- (b) For use where the joint venture participant is a partnership.
- (c) For use where the joint venture participant is a company incorporated in Hong Kong and executes the deed with a Common Seal.
- (d) For use where the joint venture participant is a company incorporated in Hong Kong and executes the deed without a Common Seal.
- (e) For use where the joint venture participant executes the deed under a power of attorney.

Select the appropriate form or forms and REPEAT FOR EACH PARTICIPANT of the unincorporated joint venture.

¹ The italic parts are not part of the execution clause. They are for guidance or information only.

² Select the correct expression for use. If none is applicable, insert an appropriate expression.

³ The deed shall be executed by all the partners. Add more names if required.

APPENDIX 6.31 SAMPLE LETTER FOR NOTIFICATION OF REDUCTION OF CONTINGENCY SUM

Dear Sirs,

(Contract Title)
Reduction of Contingency Sum

Pursuant to sub-clause (1) of Special Conditions of Tender (SCT) XX, I hereby notify you that the Contingency Sum in the amount of \$ ____ as stated in the [Bills of Quantities]¹ is reduced to \$ ____.

Please note that in accordance with sub-clause (2) of SCT XX, you are deemed to have agreed that:

- (1) the amount of the Contingency Sum as stated in the [Bills of Quantities]¹ shall be taken to be reduced accordingly; and
- (2) the amount of the tender sum as stated in the Form of Tender and [Bills of Quantities]¹ shall be taken to be reduced to \$ ____ to reflect the reduction in the amount of the Contingency Sum under (1) above.

Please also note that the Government is yet to decide on the award of the Contract and nothing in this letter should be construed as either an acceptance or rejection of your tender. The Government does not bind itself to accept any tender irrespective of whether the tender is the lowest bid or where the assessment of the tenders is based on a marking scheme or formula approach, the tender has the highest overall score.

I enclose an acknowledgement letter which you are required to sign and return within two days of receipt of this letter.

Yours faithfully,

.....
(Designation of the Engineer
designate for the Contract)

ACKNOWLEDGEMENT

(To be signed and returned within two days of receipt of the above letter)

Date

To: (Designation of the Engineer designate for the Contract or Consultant’s Project Officer as appropriate)

Dear Sir,

(Contract Title)
Reduction of Contingency Sum

We hereby acknowledge receipt of the notification letter dated (date) on reduction of the Contingency Sum as stated in the [Bills of Quantities]¹ for the above Contract.

Yours faithfully,

.....
(Authorized Signature with Company chop)

Name of Company

1 The Project Office shall determine the appropriate wording to suit the contract/tender documentation arrangements of the contract being tendered.

APPENDIX 6.32 CUT-OFF DATES FOR TENDER ASSESSMENT

(Ref.: Annex from FSTB's memo ref. () in TsyB T 00/810-6/33/0 Pt. 5)

Type of contract	Aspects of assessment	Original TCD	Extended TCD (if TCD has been extended)
Works	Tenderer's experience	✓	
	Key personnel's experience and qualification	✓	
	Tenderer's admission, promotion and confirmation to Development Bureau's approved list/specialist list of contractors		✓
	Tenderer's performance		✓
	Tenderer's conviction records		✓
	Tenderer not under suspension		✓
	Eligibility of probationary contractors to tender and for award of contract		✓
Stores	Tenderer and/or manufacturer's experience	✓	
	Tenderer and/or manufacturer's qualification (e.g. possession of valid licence(s)/certificate(s), production capacity, etc.)	✓	
	Key personnel's experience and qualification	✓	
	Laboratory test report		✓
Non-works services	Tenderer's experience	✓	
	Tenderer's qualification (e.g. possession of valid licence(s)/certificate(s))	✓	
	Key personnel's experience and qualification	✓	
	Tenderer's performance (e.g. default notices/warning letters received)		✓
	Tenderer's demerit points		✓
	Tenderer's conviction records		✓

APPENDIX 6.33 METHOD OF SELECTION OF TENDER COMBINATION (Subsumed from DEVB TCW No. 8/2014)

Method

Selection of the tender combination should be based on the lowest total cost of the combination to the Government. This method applies when a marking scheme approach or formula approach is adopted for tender evaluation and a tenderer is found to be the highest combined technical/price (or performance/price) scorer for a greater number of contracts in the same tender exercise than he is allowed to take up.

Example

Five contracts are to be tendered out through a tender exercise which sets out the maximum number of contracts that may be awarded to a tenderer as two. A marking scheme (with a 70% weighting for price and 30% weighting for technical assessment) is adopted for tender evaluation. One tenderer (Tenderer A) has gained the highest combined technical/price score for three contracts. The score sheet is at Annex.

Three tender combinations are possible as shown in the following table. In this example, Combination 1 should be recommended as it yields the lowest total cost to the Government:

	Contract I	Contract II	Contract III	Total Tendered Prices
Combination 1 Successful Tender (Tender Price)	Tenderer A (\$50)	Tenderer A (\$80)	Tenderer D (\$100)	\$230
Combination 2 Successful Tender (Tender Price)	Tenderer A (\$50)	Tenderer C (\$100)	Tenderer A (\$135)	\$285
Combination 3 Successful Tender (Tender Price)	Tenderer B (\$100)	Tenderer A (\$80)	Tenderer A (\$135)	\$315

Annex

Score Sheet

Contract/ Contractor	Tendered Price	Price Score (out of 70)	Technical Score (out of 30)	Combined Technical/Price Score	
Contract I					
Tenderer A	\$50	70.00	15.00	85.00	(highest)
Tenderer B	\$100	35.00	30.00	65.00	(2 nd highest)
Tenderer C	\$70	50.00	10.00	60.00	
Tenderer D	\$200	17.50	25.00	42.50	
Contract II					
Tenderer A	\$80	61.25	19.00	80.25	(highest)
Tenderer C	\$100	49.00	30.00	79.00	(2 nd highest)
Tenderer B	\$70	70.00	8.00	78.00	
Tenderer D	\$220	22.27	22.00	44.27	
Contract III					
Tenderer A	\$135	51.85	30.00	81.85	(highest)
Tenderer D	\$100	70.00	5.00	75.00	(2 nd highest)
Tenderer B	\$125	56.00	10.00	66.00	
Tenderer C	\$220	35.00	25.00	60.00	
Contract IV					
Tenderer B	\$220	61.25	28.00	89.25	(highest)
Tenderer D	\$175	70.00	18.00	88.00	
Tenderer A	\$250	49.00	30.00	79.00	
Tenderer C	\$225	54.44	20.00	74.44	
Contract V					
Tenderer C	\$200	52.50	30.00	82.50	(highest)
Tenderer A	\$180	58.33	20.00	78.33	
Tenderer D	\$150	70.00	8.00	78.00	
Tenderer B	\$350	30.00	20.00	50.00	

(Contract IV to be awarded to Tenderer B and Contract V to Tenderer C as the highest combined technical/price scorer.)

APPENDIX 6.34 ELECTRONIC DISSEMINATION OF TENDER DOCUMENTS AND ELECTRONIC SUBMISSION OF TENDER RETURNS ON REMOVABLE MEDIA

(Subsumed from ETWB TCW No. 11/2005 and SDEV's memo ref. () in DEVB(W) 546/94/01 dated 19.12.2019)

1. Introduction

1.1 Definitions

1.1.1 In this appendix, unless the context otherwise requires-

- (a) "Architect /Engineer /Maintenance Surveyor /Supervising Officer Designate" means the person who will perform the duty of the Architect, Engineer, Maintenance Surveyor or the Supervising officer for a Works Contract being tendered.**
- (b) "Authorized Service Provider" means a non-government organization which has signed a service agreement with DEVB on the provision of electronic dissemination services for EDP.**
- (c) "CD-ROM" means CD-ROM media complying with ISO 9660 standard and/or DVD-ROM media in DVD+R or DVD-R format.**
- (d) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in Section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.**
- (e) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.**
- (f) "Electronic Dissemination Package" (or "EDP") means the collection of electronic files comprising:-**
 - (i) files containing the contents of a set of Tender Documents;**
 - (ii) the licence conditions on using the files in Clause 1.1.1(f)(i) above; and**
 - (iii) supporting files containing information on using the files in Clause 1.1.1(f) (i) above.**
- (g) "Eligible Tenderer" means a tenderer who is eligible to submit tender for a works contract.**
- (h) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.**

- (i) **"Map Data"** means any map and land boundary data in which Lands Department has copyright. Map Data do NOT include any data from other sources including any land surveys commissioned by a Works Department.
- (j) **"Organizational e-Cert"** means a digital certificate issued under the name of an organization by a recognized certification authority as defined under Section 2 of the Electronic Transactions Ordinance (Cap. 553).
- (k) **"Signed Editable File"** means the Digitally Signed version of the Editable File.
- (l) **"Signed File"** means Signed Editable File and Signed Image File.
- (m) **"Signed Image File"** means the Digitally Signed version of the Image File.
- (n) **"Tender Addendum"** means a set of documents and its attachments in the form of hard copy or electronic files issued before the Tender Closing Date to amend the tender documents.
- (o) **"Tender Closing Date"** means the date and time set for the return of tender for a Works Contract.
- (p) **"Tender Documents"** means the documents in the form of hard copy or electronic files issued for the tendering of Works Contracts, including-
 - (i) the invitation to submit tenders and other documents issued together with it; and
 - (ii) Tender Addenda.
- (q) **"Works Contract"** means a contract managed by a Works Department for design, construction, operation or maintenance of infrastructures or buildings and includes maintenance term contracts and design and build contracts. A Works Contract does not include-
 - (i) contracts awarded through the Government Supplies Department;
 - (ii) consultancy agreements awarded in accordance with the consultant selection procedures in the Stores and Procurement Regulations; and
 - (iii) procurements made in accordance with Chapter II of the Stores and Procurement Regulations.
- (r) **"Works Department"** means Architectural Services Department, Civil Engineering and Development Department, Drainage Services Department, Electrical and Mechanical Services Department, Highways Department, or Water Supplies Department.

1.2 Scope

1.2.1 This document stipulates the procedures for the dissemination of Tender Documents for Works Contracts managed by a Works Department.

1.2.2 Tender Documents for Works Contracts should be disseminated through each of the following channels-

- (a) Direct Dissemination – Tender Documents in the form of hard copy and EDP should be issued to tenderers eligible to submit tenders for Works Contracts; and**
- (b) Dissemination through Authorized Service Providers – Tender Documents in the form of EDP only should be disseminated through Authorized Service Providers.**

1.2.3 Electronic dissemination of Tender Documents should apply to all Works Contracts delivered using in-house resources of Works Departments or through consultants.

1.3 Structure of document

1.3.1 This document is structured as follows-

- (a) Section 1 – Introduction;**
- (b) Section 2 – Electronic Dissemination Procedures, which describes the procedures to be followed by a Works Department in disseminating electronic tender documents;**
- (c) Section 3 – Electronic Dissemination Packages, which describes the procedures for packaging the electronic tender documents for dissemination;**
- (d) Section 4 – Authorized Service Providers, which focuses mainly on the procedures to be followed by DEVB in appointing authorized service providers for disseminating electronic tender documents;**
- (e) Annexes-**
 - (i) Annex 1 – Licence Conditions for Electronic Dissemination Packages Distributed Through Direct Dissemination;**
 - (ii) Annex 2 – Licence Conditions for Electronic Dissemination Packages Distributed Through Authorized Service Providers; and**
 - (iii) Annex 3 – Service Agreement for Dissemination of Electronic Dissemination Packages.**

2. Electronic Dissemination Procedures

2.1 Purpose

2.1.1 This section describes the procedures to be followed by a Works Department in disseminating electronic tender documents.

2.2 Preparation of EDP

2.2.1 The electronic version of Tender Documents for Works Contracts should be disseminated in the form of EDP's prepared in accordance with the manner and format contained in Section 3.

2.2.2 EDP's containing the following documents should be issued –

- (a) the original version of tender documents; and**
- (b) any Tender Addenda issued in accordance with the Conditions of Tender.**

2.3 Direct Dissemination

2.3.1 A Works Department that manages a Works Contract should issue the EDP as well as the hard copy of Tender Documents for the contract to Eligible Tenderers. The EDP and the hard copy should be issued free of charge . Requests for additional electronic copies of tender drawings should be charged in accordance with the provisions of the prevailing DEVB technical circular on charges of electronic drawings. Request for additional electronic copies of other types of Tender Documents should be charged at the rates prescribed from time to time by the relevant authorities. Request for additional hard copies should be charged at the rates prescribed from time to time by the relevant authorities.

2.4 Dissemination through Authorized Service Provider

2.4.1 DEVB may from time to time enter into service agreements with non-government organizations (including, without limitations, construction industry trade associations and commercial entities) for-

- (a) distribution of EDP's through their web sites (Internet dissemination services);**
- (b) distribution of duplicates of EDP's (replication services); and**
- (c) providing value-added services through their web sites using the contents of the EDP's (value-added services).**

2.4.2 Hard copies of Tender Documents should not be issued to Authorized Service Providers.

2.4.3 The procedures for negotiating service agreements are set out in Section 4.

2.4.4. Service agreements will be made using the standard agreement in Annex 3. The list of Authorized Service Providers is posted on DEVB's web site at https://www.devb.gov.hk/en/construction_sector_matters/electronic_services/e_procurement/e_procurement_of_public_works_contracts/dissemination_throug_h_asp/index.html.

2.5 Issue of EDP's

2.5.1 When EDP's are issued to Eligible Tenderers, the Works Department should issue at the same time the same EDP's to Authorized Service Providers using the Issue Notice stipulated in Schedule 2 to Annex 3. An EDP should be issued with the attachment of a set of licence conditions in Annex 1 or Annex 2 where appropriate, duly completed by the Works Department in accordance with the footnotes therein.

2.5.2 In accordance with the service agreement, Authorized Service Providers should submit, within 7 working days of the Tender Closing Date, a Return Notice as stipulated in Schedule 3 to Annex 3 to the Works Department. The Works Department should retain the Return Notice for record purposes.

3. Electronic Dissemination Packages

3.1 General Guidelines

3.1.1 Notwithstanding the procedures for preparing EDP's as described in this Section, the following guidelines are applicable to electronic copies of all tender documents except CAD drawings:

- (a)** The EDP files should be considered as an e-book of the corresponding hard copy of tender documents. Number of files constituting each Part (Clause 3.7.6 below) of the tender documents should be minimized.
- (b)** The followings serve as reference when compiling EDP files on textual information, Bill of Quantities and images:
 - (i)** Sections of each Part of the tender documents other than Bill of Quantities, etc., that are standardized and not subject to changes to suit particular contract, should be combined into one single file. If, e.g., Section xxx of Part yyy will be different for different contracts, it is recommended to combine all Sections before Section xxx into one file, Section xxx in a separate file and the remaining Sections in another file. Only three files will cover the whole part in this example.
 - (ii)** It is recommended to have one Excel workbook for the Bills of Quantities / Schedule of Rates/Plant and Labour Schedule / Equipment Schedule.
 - (iii)** Image files should be reviewed to see if they could be combined meaningfully into a multi-page image file with a view to reducing the number of files in an EDP.
 - (iv)** Due to operational constraints such as time available in checking the merged file of different documents produced by different professional disciplines, each Part of the tender document may be split according to the disciplines. Yet, the principle of minimizing the number of EDP files should be adhered to.

3.2 Contents

3.2.1 The original set of Tender Documents in electronic format should contain the electronic version of-

- (a) a set of tender documents;**
- (b) the license conditions for EDP; and**
- (c) the supporting information described in section 3.8 below for using the EDP.**

3.2.2 The Tender Addendum in electronic format should contain electronic version of-

- (a) the covering letter for the Tender Addendum;**
- (b) the amendment sheets issued with the Tender Addendum;**
- (c) the license conditions for EDP; and**
- (d) the supporting information described in section 3.8 below for using the EDP.**

3.3 Media

3.3.1 EDP's should be distributed on write once type CD-ROM's. Re-writable media shall not be used. The CD-ROM shall be logically closed such that no subsequent change can be made to the EDP.

3.3.2 The label for the CD-ROM's should contain the following information:

- (a) the EDP reference number as specified in section 3.6 below**
- (b) the Contract number and the Contract title**
- (c) CD-ROM sequence number in the form of "Disk x of y" where x is the sequence number of the CD-ROM and y is the total number of CD-ROM's in the EDP. This will be useful in identifying individual CD-ROM when an EDP contains more than one CD-ROM.**

3.3.3 For EDP that will be used for direct dissemination, i.e. EDP issued directly to Eligible Tenderers, the distribution media should be contained in envelopes or other similar enclosures and sealed with labels containing the following notice –

"Please read the attached "Licence Conditions for Electronic Dissemination Packages" (the Licence Conditions) before opening this package. If you open this package, you will be deemed to have read the Licence Conditions and to have accepted them. If you do not agree with the Licence Conditions, please do not open the package and do return the package to [name of department and address]."

3.4 Data formats

3.4.1 The data formats⁶ and associated versions of documents / files to be adopted in EDP's should adhere to the latest OGCIO Interoperability Framework which can be downloaded from the OGCIO website:

https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html

The current data formats for the various types of documents in EDP's are stipulated as follows-

Type of File	Editable File Format	Image File Format
Bills of Quantities, Schedule of Rates and any other schedules	Microsoft Excel format (.xls) ISO/IEC 29500:2008 format (.xlsx)	Not Applicable
Other text documents	Microsoft Rich Text Format (RTF) Microsoft Word format (.doc) ISO/IEC 29500:2008 format (.docx)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)
Scanned text documents	Not applicable	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)
Drawings	Microstation DGN format AutoCAD format Autodesk Drawing Exchange Format (DXF) Initial Graphic Exchange Specification (IGES)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)
Building Information Modelling (BIM)	<i>(Procuring Department to define and insert)</i>	Not Applicable ⁷
Scanned drawings	Not applicable	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)
Animation ⁸	HTML5	Not Applicable
Video, movie ⁹	MPEG-1 (ISO 11172) MPEG-4 (ISO 14496)	Not Applicable
Slide presentation	Microsoft PowerPoint format (.ppt) ISO/IEC 29500:2008 format (.pptx)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)

² *Internal Note for procuring departments: The data formats and associated versions of documents / files to be adopted in EDP's should be updated to the latest OGCIO Interoperability Framework as appropriate.*

⁷ For files generated by BIM, please refer to the file format required for the respective types of documents.

⁸ For files generated by BIM, please refer to the file format required for the respective types of documents.

⁹ Please ensure that appropriate viewers / codecs are openly accessible to the tenderers (e.g. as freeware downloadable from the Internet), and should provide a pointer to the viewer / codecs as necessary.

- 3.4.2** To facilitate electronic tender preparation by tenderers and subsequent processing of electronic tender return, the files for "Bills of Quantities, Schedule of Rates and any other schedules" should be prepared in Excel format, unless prior agreement is made with DEVB. Cells which are not intended for data entry by tenderers should be locked and protected from being updated. The file should be structured and formatted to enable the use of verification tools that the works departments may adopt to facilitate checking of unauthorized changes to locked cells.
- 3.4.3** If more than one file format are specified, files need to be provided in one of the specified formats only. In so far as possible, the preferred formats should be used.
- 3.4.4** The contents of each document in an EDP, where applicable, shall be hosted in two file formats as shown in section 3.4.1-
- (a) Editable File format– which is in file formats that are editable by mainstream computer applications for office automation and computer-aided drafting; and
 - (b) Image File format – which in file formats that capture the printed image of the documents.
- 3.4.5** As the conversion of drawing files to PDF may slightly distort the scale of the drawing elements, line scales in both horizontal and vertical directions should be included in drawings files to enable the tenderers to ascertain the correction factors to compensate for the distortion.
- 3.4.6** File compression programs should NOT be used to compress files in EDP's.
- 3.5** Digital Signature
- 3.5.1** For the purpose of authentication, all files in an EDP should be Digitally Signed.
- 3.5.2** For in-house contracts, the Digital Signatures for Signed Files should be applied by officers authorized by the Architect/Engineer/Maintenance Surveyor/Supervising Officer Designate. For contracts managed by consultants, the signatures should be applied by employees of the consultants at professional or more senior ranks.
- 3.5.3** Organizational e-Cert shall be used for the purpose of applying Digital Signatures.
- 3.6** Reference Number
- 3.6.1** Each EDP should be identified by a unique reference number consisting of the following fields-
- (a) Standard prefix consisting of the letters "EDP";
 - (b) Contract number, that is the contract number for the Works Contract;

- (c) **Serial number to be assigned as follows-**
- (i) **EDP for original set of Tender Documents – 0; and**
 - (ii) **EDP for Tender Addendum – reference assigned to the addendum.**

3.6.2 The following examples illustrate the rules in section 3.6.1 above-

Tender Documents	EDP Reference
EDP issued with original set of tender documents for DC/98/12	EDP-DC/98/12-0
EDP issued with Tender Addendum No. 2 for DC/98/12	EDP-DC/98/12-2

3.7 File Naming Convention

General provisions

3.7.1 EDP files but excluding model drawing files should be named in accordance with the conventions in the following sections. However, Works Departments may adapt or extend these conventions to suit their requirements.

3.7.2 File names of the model drawing files should comply with the CAD Standard for Works Projects.

3.7.3 File names should consist of fields separated by the dash character (“-”).

3.7.4 Characters that are not allowed in file names should be replaced with the underscore character (“_”).

3.7.5 The type identifier of an Editable File is "E" and the type identifier of an Image File is "I".

3.7.6 The following are the suggested identifiers for identifying files belonging to the various parts of the EDP-

Part	Part Identifier
General specification	GS
Standard method of measurement	SMM
Articles of agreement	AA
General conditions of contract	GCC
General conditions of tender	GCT
Special conditions of tender	SCT
Form of tender	FTR
Special conditions of contract	SCC
Particular specifications	PS
Bills of Quantities	BQ
Schedule of Rates	SR
Drawings	DRG
Tender Addenda	TDA
Licence Conditions for EDP	LC

- 3.7.7 File names should include version numbers that may consist of alphabets, numerals or a combination of both.**

Drawing files

- 3.7.8 The file name should consist of the following fields-**

- (a) type identifier;**
- (b) drawing number conforming with the CAD Standard for Works Projects;**
- (c) part identifier; and**
- (d) version number**

Tender Addenda

- 3.7.9 The file names for Tender Addenda should consist of the following fields-**

- (a) type identifier;**
- (b) contract number;**
- (c) part identifier for Tender Addenda;**
- (d) Tender Addendum number – the reference number assigned to the Tender Addendum; and**
- (e) component number – a field for distinguishing the different files containing the contents of a Tender Addendum.**

Other types of files

- 3.7.10 The file name for the other types of files should consist of the following fields-**

- (a) type identifier;**
- (b) contract number;**
- (c) part identifier;**
- (d) component number – a field for distinguishing the different files containing the contents of Tender Documents; and**
- (e) version number.**

3.8 Supporting Information

- 3.8.1 Each EDP should include a "Readme" file, named "README.RTF", that should be prepared in Rich Text Format, Digitally Signed and stored in the root directory of every CD-ROM. This file should contain at least the following**

information (or reference to other files on the CD-ROM on the following information):

- (a) general guidance on the use of EDP's (e.g. the file naming convention, directory structure of the EDP, software name and version for viewing the file);**
- (b) a list of all documents in the EDP with the following information-**
 - (i) brief description of the content of the document; and**
 - (ii) disk no. (if the EDP contain more than one CD-ROM) and filename with full path information for the Signed Image File and Signed Editable File;**
- (c) Revision history – summary of the revisions made to the files including the Tender Addenda making the revisions;**
- (d) information on the proper setting for viewing, editing, and printing the EDP files, including, without limitations-**
 - (i) the type of printer to be used for printing the files;**
 - (ii) the paper sizes;**
 - (iii) requirements for special fonts; and**
 - (iv) any special printing instructions (e.g. the adjustment settings such as “Shrink oversized pages to paper size”, “Expand small pages to paper size”, etc. when printing PDF files);**
- (e) the name and telephone number of subject officer responsible for the tender for enquiry purpose.**

3.9 Intellectual Property Issues

Map Data and other contents subject to pre-existing copyrights

3.9.1 Files containing Map Data should be designated as Special Files in the licence conditions in Annex 1 and Annex 2 to prevent re-distribution by the tenderers and customers of Authorized Service Providers.

3.9.2 The inclusion of any other contents subject to pre-existing copyrights in EDP's should be avoided. Instead of including these contents, Works Departments should consider the alternative of providing the Internet addresses for obtaining the information from the copyright owners.

4. Authorized Service Providers

4.1 Purpose

4.1.1 This section describes the procedures for appointing Authorized Service Providers.

4.2 Overview

4.2.1 DEVB may enter from time to time service agreements with non-government

organizations for re-dissemination of EDP's. These organizations may include non-commercial establishments or commercial entities.

4.2.2 An Authorized Service Provider may provide the following types of services to its customers using EDP's-

- (a) Replication Service (RS), which is the making of physical duplicates of EDP's for re-distribution;**
- (b) Internet Dissemination Service (IDS), which is the dissemination of EDP's through the web sites of the Authorized Service Provider; and**
- (c) Value Added Service (VAS), which is the provision of value added service using information in the EDP.**

4.2.3 Non-government organizations may apply for appointment as an Authorized Service Provider in accordance with the procedures set out in the following stages-

- (a) submission of application;**
- (b) assessment of application by DEVB; and**
- (c) conclusion of service agreement.**

4.3 Submission of application

4.3.1 A non-government organization should submit to DEVB in writing an application prepared in accordance with the following outline-

- (a) General information**
 - (i) the nature of the organizations;**
 - (ii) the purposes of the application;**
- (b) Scope of services, describing the services that the organization intends to provide, including-**
 - (i) whether the organization intends to provide RS;**
 - (ii) whether the organization intends to provide IDS; and**
 - (iii) whether the organization intends to provide VAS and the nature of such services;**
- (c) Service Proposal**
 - (i) General**
 - (1) authenticating the identity of parties using RS, IDS and VAS;**
 - (2) keeping records of the contents provided to users of RS, IDS and VAS;**
 - (3) securing the customers' acceptance of the Licence Conditions before allowing them to use the RS, IDS and VAS;**
 - (4) arrangements for advising downloaders of the issue of Tender Addenda in a timely manner;**
 - (ii) RS**

- (1) the target clients for RS;
- (2) the proposal for providing RS including the proposed service levels; and
- (3) the proposed charges for RS;
- (iii) IDS
 - (1) the address of the hosting web site that will provide IDS;
 - (2) the target clients for the service;
 - (3) the proposals for providing IDS including proposed service levels; and
 - (4) the proposed charges for IDS;
- (iv) VAS
 - (1) the address of the hosting web site that will provide VAS;
 - (2) the details of the proposed VAS;
 - (3) the target clients for VAS;
 - (4) the proposal for providing VAS, including service levels; and
 - (5) the proposed charges for VAS.

4.3.2 The service level proposals should include, without limitations-

- (a) RS, IDS and VAS - The turnaround times for making updates available upon the receipt of Issue Notice for EDP stipulated in Schedule 2 to Annex 3;
- (b) IDS and VAS – Appropriate performance indicators, including, without limitations-
 - (i) bandwidths dedicated to IDS and VAS;
 - (ii) downloading speeds; and
 - (iii) response time to enquiries.

4.4 Assessment of application

4.4.1 DEVB should assess the suitability of an application on the basis of the following considerations-

- (a) nature of the organization and its connection with the construction industry;
- (b) purposes of providing the Internet dissemination services, replication services and value-added services;
- (c) capability for providing satisfactory levels of service to users;
- (d) the adequacy of the proposals for providing the various services, in particular the proposed levels of services;
- (e) reputation of the organization; and
- (f) whether such authorization will have detrimental effects on the image of DEVB and Works Departments.

4.5 Conclusion of Service Agreement

4.5.1 If an application is accepted, DEVB may enter into a service agreement with the

organization. The agreement should be prepared on the basis of the pro-forma agreement in Annex 3.

Annex 1 to Appendix 6.34

Licence Conditions
for Electronic Dissemination Packages
Distributed Through Direct Dissemination

EDP Reference - ¹⁰

1. This set of "Licence Conditions for Electronic Dissemination Packages Distributed Through Direct Dissemination" may be cited as the "Licence Conditions".
2. In these conditions, unless the context otherwise requires-
 - (a) "Contract" means the works contract named in Schedule 1 hereto.
 - (b) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in Section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.
 - (c) "Distribution Medium" means the removable electronic storage medium containing all or part of the files of an EDP.
 - (d) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.
 - (e) "Electronic Dissemination Package" (or "EDP") means the electronic files in Schedule 2 hereto containing the contents of the Tender Documents, the supporting information for using these electronic files and these Licence Conditions.
 - (f) "Employer" means the Government of the Hong Kong Special Administrative Region.
 - (g) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.
 - (h) "Licensee" means the person who has collected from the Employer and uses the EDP and includes, if the person acts on behalf of another person, that other person.
 - (i) "Relevant File" means an electronic file that-
 - (i) is derived from duplication of any files in the EDP; or
 - (ii) contains any contents extracted from any files in the EDP.
 - (j) "Signed Editable File" means a file listed under the column "Signed Editable File" in Schedule 2 hereto containing the Digitally Signed version

¹⁰ To be inserted by department

of an Editable File.

- (k) **"Signed Image File" means a file listed under the column "Signed Image File" in Schedule 2 hereto containing the Digitally Signed version of an Image File.**
 - (l) **"Special File" means a file listed in Schedule 3 hereto.**
 - (m) **"Sub-licensee" means a party licensed by the Licensee to use the EDP.**
 - (n) **"Tender" means the tender that may be submitted for the Contract.**
 - (o) **"Tender Addendum" means a set of documents and its attachments in the form of electronic files issued before the Tender Closing Date to amend the tender documents.**
 - (p) **"Tender Closing Date" means the date and time set for the return of tender for the Contract.**
 - (q) **"Tender Documents" means the documents in the EDP issued for the tendering of the Contract, including:-**
 - (i) **the invitation to submit tenders and other documents issued together with it; and**
 - (ii) **Tender Addenda.**
 - (r) **"Triggering Event" means one of the following events-**
 - (i) **The Licensee does not submit a Tender by the Tender Closing Date;**
 - (ii) **The Licensee receives notification from the Employer that his Tender is invalid;**
 - (iii) **The Licensee receives notification from the Employer that his Tender is not accepted;**
 - (iv) **The Licensee withdraws his Tender; or**
 - (v) **The execution of the Articles of Agreement for the Contract.**
- 3. Words importing the singular only also include the plural and vice versa where the context requires. Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.**
- 4. Subject to the provisions hereof, the Employer grants the Licensee, free of charge, a non-exclusive and revocable licence for using the EDP solely for the purpose of preparing the Tender. The Licensee shall not use the EDP for any other purpose. Save as aforesaid, all other rights in the EDP are reserved by the relevant copyright owners.**
- 5. The Licensee shall indemnify and keep indemnified the Employer against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising out of any disputes or other claims or proceedings against the Employer by any third party by reason of any breach by the Licensee of Clause 4 hereof.**

6.
 - (1) The licence for using the EDP shall expire within seven working days of the occurrence of a Triggering Event.
 - (2) Sub-clause (1) shall not apply if the Licensee is nominated as a sub-contractor or supplier in a tender submitted by a tenderer who is holding a valid licence to use the EDP (the "Relevant Licence"). In this case, the licence of the Licensee shall expire with the Relevant Licence. If there are more than one Relevant Licences, the licence shall expire with the last Relevant Licence.
 - (3) On or before the expiration date of the licence, the Licensee shall-
 - (a) either destroy the Relevant Files in his possession or retain them as archives; and
 - (b) ensure that all sub-licensees have either destroyed the Relevant Files in their possession or retained these files for archive purpose
7. Any files kept as archives pursuant to Clause 6 shall not be used for any other purpose.
8. Subject to the following conditions, the Licensee may license other persons as Sub-licensees to use the EDP-
 - (a) The Licensee shall obtain from each Sub-licensee an undertaking in writing that the Sub-licensee shall not use the EDP for any purpose other than for the purpose of preparing the Tender;
 - (b) The Licensee shall be liable to the Employer for the breach of the undertaking referred to in sub-clause (a) of this Clause by the Sub-licensees as if the breach were committed by the Licensee;
 - (c) The Licensee shall indemnify and keep the Employer indemnified against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising out of any disputes or other claims or proceedings against the Employer by any third party by reason of any breach of the undertaking referred to in sub-clause (a) of this Clause by the Sub-licensees as if the breach were committed by the Licensee;
 - (d) Provided that:-
 - (i) The Licensee shall not license any Sub-licensee to use the Special Files enumerated in Schedule 3 hereto; and
 - (ii) The Licensee shall not grant any Sub-licensee the right to license other parties to use the EDP.

Schedule 1¹¹

Contract No. _____

Contract Title _____

Department _____

Tender Closing Date¹² _____

¹¹ To be completed by department.

¹² Please also fill in the time.

Schedule 2 – Electronic Dissemination Package¹³

Tender Documents	Version no.	Signed Image File¹⁴	Signed Editable File¹⁵

¹³ To be completed by department

¹⁴ the location and filename in the EDP (includes disk no., if the EDP contain more than one CD-ROM, and filename with full path information)

¹⁵ the location and filename in the EDP (includes disk no., if the EDP contain more than one CD-ROM, and filename with full path information)

Schedule 3 – Special Files¹⁶
(Files not to be re-distributed by tenderers)

(List the file names of the special files in the EDP)

¹⁶ To be completed by department

Annex 2 to Appendix 6.34

Licence Conditions
for Electronic Dissemination Packages
Distributed Through Authorized Service Providers

EDP Reference - ¹⁷

1. This set of "Licence Conditions for Electronic Dissemination Packages Distributed Through Authorized Service Providers" may be cited as the "Licence Conditions".
2. In these conditions, unless the context otherwise requires-
 - (a) "Authorized Service Provider" means a service provider which has been authorized by the Employer to provide dissemination services for EDP.
 - (b) "Contract" means the works contract named in Schedule 1 hereto.
 - (c) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.
 - (d) "Distribution Medium" means the removable electronic storage medium containing all or part of the files of an EDP.
 - (e) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.
 - (f) "Electronic Dissemination Package" (or "EDP") means the electronic files in Schedule 2 hereto containing the contents of the Tender Documents, the supporting information for using these electronic files and these Licence Conditions.
 - (g) "Employer" means the Government of the Hong Kong Special Administrative Region.
 - (h) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.
 - (i) "Licensee" means-
 - (i) the person who has obtained the Distribution Medium from an Authorized Service Provider and uses the EDP and includes, if the person acts on behalf of another person, that other person; or
 - (ii) the person who has downloaded any of the electronic files contained in the EDP from an Authorized Service Provider and includes, if the person acts on behalf of another person, that other person.

¹⁷ To be inserted by department

- (j) **"Relevant File" means an electronic file that-**
 - (i) **is derived from duplication of any files in the EDP; or**
 - (ii) **contains any contents extracted from any files in the EDP.**
 - (k) **"Signed Editable File" means a file listed under the column "Signed Editable File" in Schedule 2 hereto containing the Digitally Signed version of an Editable File.**
 - (l) **"Signed Image File" means a file listed under the column "Signed Image File" in Schedule 2 hereto containing the Digitally Signed version of an Image File.**
 - (m) **"Special File" means a file listed in Schedule 3 hereto.**
 - (n) **"Sub-licensee" means a party licensed by the Licensee to use the EDP.**
 - (o) **"Tender" means a tender that may be submitted for the Contract.**
 - (p) **"Tender Addendum" means a set of documents and its attachments in the form of electronic files issued before the Tender Closing Date to amend the tender documents.**
 - (q) **"Tender Closing Date" means the date and time set for the return of tender for the Contract.**
 - (r) **"Tender Documents" means the documents in the EDP issued for the tendering of the Contract, including:-**
 - (i) **the invitation to submit tenders and other documents issued together with it; and**
 - (ii) **Tender Addenda.**
 - (s) **"Triggering Event" means one of the following events-**
 - (i) **The Licensee does not submit a Tender by the Tender Closing Date;**
 - (ii) **The Licensee receives notification from the Employer that his Tender is invalid;**
 - (iii) **The Licensee receives notification from the Employer that his Tender is not accepted;**
 - (iv) **The Licensee withdraws his Tender; or**
 - (v) **The execution of the Articles of Agreement for the Contract.**
3. **Words importing the singular only also include the plural and vice versa where the context requires. Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.**
4. **Subject to the provisions hereof, the Employer grants the Licensee, free of charge, a non-exclusive and revocable licence for using the EDP solely for the purpose of preparing the Tender. Save as aforesaid, all other rights in the EDP are reserved by the relevant copyright owners.**

5. **The Licensee shall indemnify and keep indemnified the Employer against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising out of any disputes or other claims or proceedings against the Employer by any third party by reason of any breach by the Licensee of Clause 4 hereof.**
6.
 - (1) **The licence for using the EDP shall expire within seven working days of the occurrence of a Triggering Event.**
 - (2) **Sub-clause (1) shall not apply if the Licensee is nominated as a sub-contractor or supplier in a tender submitted by a tenderer who is holding a valid licence to use the EDP (the "Relevant Licence"). In this case, the licence of the Licensee shall expire with the Relevant Licence. If there are more than one Relevant Licences, the licence shall expire with the last Relevant Licence.**
 - (3) **On or before the expiration date of the licence, the Licensee shall-**
 - (a) **either destroy the Relevant Files in his possession or retain them as archives; and**
 - (b) **ensure that all sub-licensees have either destroyed the Relevant Files in their possession or retained these files for archive purpose.**
7. **Any files kept as archives pursuant to Clause 6 shall not be used for any other purpose.**
8. **Subject to the following conditions, the Licensee may license other persons as Sub-licensees to use the EDP-**
 - (a) **The Licensee shall obtain from each Sub-licensee an undertaking in writing that the Sub-licensee shall not use the EDP for any purpose other than for the purpose of preparing the Tender;**
 - (b) **The Licensee shall be liable to the Employer for the breach of the undertaking referred in sub-clause (a) of this Clause by the Sub-licensees as if the breach were committed by the Licensee;**
 - (c) **The Licensee shall indemnify and keep the Employer indemnified against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising out of any disputes or other claims or proceedings against the Employer by any third party by reason of any breach of the undertaking referred to in sub-clause (a) of this Clause by the Sub-licensees as if the breach were committed by the Licensee;**
 - (d) **Provided that:-**
 - (i) **The Licensee shall not license any Sub-licensee to use the Special Files enumerated in Schedule 3 hereto; and**

- (ii) The Licensee shall not grant any Sub-licensee the right to license other parties to use the EDP.**

Schedule 1¹⁸

Contract No. _____

Contract Title _____

Department _____

Tender Closing Date¹⁹ _____

¹⁸ To be completed by department

¹⁹ Please also fill in the time.

Schedule 2 – Electronic Dissemination Package²⁰

Tender Documents	Version no.	Signed Image File²¹	Signed Editable File²²

²⁰ To be completed by department

²¹ the location and filename in the EDP (includes disk no., if the EDP contain more than one CD-ROM, and filename with full path information)

²² the location and filename in the EDP (includes disk no., if the EDP contain more than one CD-ROM, and filename with full path information)

Schedule 3 – Special Files²³
(Files not to be re-distributed by tenderers)

(List the file names of the special files in the EDP)

²³ To be completed by department

Annex 3 to Appendix 6.34

Service Agreement
for Dissemination of Electronic Dissemination Packages

Agreement No. – [to be assigned]

THIS AGREEMENT is made day of between the Government of the Hong Kong Special Administrative Region ("the Grantor") and [insert the full name of the service provider] ("the Grantee") whose registered office is [insert address].

RECITALS

(A) The Grantee has requested for use of the Electronic Dissemination Packages for providing Internet Dissemination Service, Replication Service, and Value-added Services.

(B) The Grantor has agreed to grant to the Grantee right to use the Electronic Dissemination Packages subject to the terms and conditions as hereinafter contained.

IT IS AGREED by the Grantor and the Grantee as follows:-

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires-

- (a) "Customer" means a person who uses RS, IDS or VAS.**
- (b) "Duplicate" means a removable medium or a set of removable media which is an exact duplicate of an EDP.**
- (c) "Electronic Dissemination Package" (or "EDP") means a removable electronic storage medium hosting the electronic files of the tender documents of a Works Contract issued by the Grantor through an Issue Notice.**
- (d) "Hosting Web Site" means the web site for hosting the IDS and VAS.**
- (e) "Internet Dissemination Service" (or "IDS") means the dissemination of the whole or parts of EDP's through a Hosting Web Site.**
- (f) "Issue Notice" means a notice in the form as set out in Schedule 2 hereto.**
- (g) "Licence Conditions" means the licence conditions stipulated in the Issue Notice for using an EDP.**
- (h) "Relevant File" means an electronic file that is derived from duplication of any files in the EDP or contains any contents extracted from any files in the EDP.**
- (i) "Replication Service" (or "RS") means the production of Duplicates and distributing them to Customers.**

- (j) **"Return Notice" means a notice in the form as set out in Schedule 3 hereto.**
 - (k) **"Licensed Services" means RS, IDS and VAS.**
 - (l) **"Service Proposal" means the Grantee's proposal on the service level of RS, IDS and VAS to be offered by the Grantee to their Customers.**
 - (m) **"Technical Specification" means a set of basic service requirements that the Grantee shall meet for providing RS, IDS and VAS.**
 - (n) **"Tender Closing Date" means the date and time set for the return of the tender stipulated in an Issue Notice.**
 - (o) **"Value-added Services" (or "VAS") means the value-added services to be provided by the Grantee using the contents of the EDP's.**
- 1.2 Words importing the singular only also include the plural and vice versa where the context requires. Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.**
- 1.3 The headings or notes in this Agreement are for ease of reference only and shall not limit or extend the interpretation of this Agreement.**
- 2. Service Level**
- 2.1 The Licensed Services provided by the Grantee shall comply with the Technical Specification contained in Schedule 1 hereto.**
- 2.2 The Grantee shall provide the Licensed Services in accordance with the terms of this Agreement and the annexed Service Proposal dated [insert date of Service Proposal]. The Service Proposal shall form an integral part of this Agreement for all purposes.**
- 2.3 In the event of any inconsistency between the provisions of this Agreement (excluding the Service Proposal) and those of the Service Proposal, the former shall prevail.**
- 3. Issue of EDP's**
- 3.1 The Grantor may issue EDP to the Grantee from time to time through the Issue Notices in Schedule 2 hereto. Upon receiving an Issue Notice, the Grantee shall collect at his own cost the EDP stated in the notice from the Grantor.**
- 4. Licence**
- 4.1 Upon the issue of an Issue Notice, the Grantor grants to the Grantee free-of-charge a non-exclusive and revocable licence for using the EDP stated in the notice to provide the Licensed Services.**

- 4.2 The licence granted in accordance with Clause 0 for an EDP shall expire within seven working days of the Tender Closing Date stipulated in the Issue Notice.**
- 5. Return Notice**
- 5.1 Upon the expiration of the licence, the Grantee shall return the completed Return Notice and shall include therein-**
- (a) a list showing the names and addresses of Customers who have obtained EDP's or parts of an EDP through RS, IDS or VAS;**
 - (b) confirmation that all undistributed Duplicates have been destroyed; and**
 - (c) confirmation that the EDP issued with the Issue Notice and the Relevant Files have either been destroyed, or kept by the Grantee as archive.**
- 5.2 EDP's kept as archive may be used for verifying the authenticity of the Duplicates made from the EDP and for locating source of computer viruses and shall not be used for any other purposes.**
- 5.3 Relevant Files kept as archive shall not be used for any other purposes.**
- 6. Provision of Licensed Services**
- 6.1 The Grantee shall provide the Licensed Services in accordance with the terms of this Agreement and the Service Proposal.**
- 6.2 The Grantor may by written notice request the Grantee to provide evidence of compliance. The Grantee shall provide evidence to the satisfaction of the Grantor within 5 working days of such notice.**
- 6.3 The Grantee shall provide the Grantor with all reasonable assistance in verifying compliance with Sub-Clause 0, including giving reasonable access to sections of the Hosting Web Site.**
- 7. Indemnity**
- 7.1 The Grantee hereby indemnifies the Grantor against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Grantor whether direct or consequential arising from any breach of this Agreement.**
- 8. Warranty**
- 8.1 EDP's are provided by the Grantor without any warranty, representation or undertaking on their fitness for any purpose. The Grantor, its employees or agents, shall not be responsible whatsoever for their fitness for any purpose.**
- 9. Termination**
- 9.1 The Grantor may terminate any licence granted pursuant to this Agreement by serving on the Grantee a 7-day notice in writing to this effect. Furthermore, the Grantor may terminate or revoke any licence granted forthwith by serving a notice in writing on the Grantee under any of the following circumstances-**

- (a) the Grantee shall fail to perform or observe any of the obligations on its part to be performed or observed under this licence provided that in the case of a breach which is capable of being remedied, such breach has remained unremedied for a period of more than 10 days after written notice to remedy the same has been given to the Grantee;
 - (b) a winding-up resolution or petition in respect of the Grantee is passed or presented (otherwise than solely for the purpose of a bona fide reconstruction or amalgamation) or a receiver has been appointed over any of its assets.
- 9.2 Termination of the licence by the Grantor, for any reason, shall be without prejudice to its rights accrued on or at any time up to the date of termination.
- 10. Assignment
- 10.1 The Grantee shall not assign, mortgage, charge or otherwise transfer any rights or obligations under this Agreement, without the prior written consent of the Grantor.
- 11. Notices
- 11.1 All notices arising out of or in connection with this Agreement shall be served-
upon the Grantor, at [insert address of Environment, Transport and Works Bureau]; and
upon the Grantee, at [insert address].

IN WITNESS HEREOF the parties hereto have hereunto set their hands the day and year first above written.

**Signed by [insert name of Government's)
representative] for and on behalf of the)
Grantor)
in the presence of:)
)**

**Signed by for and on behalf of the)
Grantee)
)
in the presence of:)
)**

Name:
Position: Director

Name:
Position: Director/Secretary

Schedule 1 Technical Specification

1. Authentication

1.2 The Grantee shall implement to the satisfaction of the Grantor procedures for authenticating the identities of the Customers that use any of the Licensed Services.

2. Acceptance of Licence Conditions

2.1 The Grantee shall implement to the satisfaction of the Grantor the procedures for securing the Customers' acceptance of the Licence Conditions for an EDP before they are allowed to use the IDS or VAS that make use of the EDP contents.

3. Tender Addendum

3.1 The Grantee shall implement to the satisfaction of the Grantor procedures for notifying Customers of the issue of Tender Addendum.

4. Replication Services

4.1 Duplicates shall be exact duplicates of an EDP. The Grantee shall not alter any contents of EDP's in the replication process.

4.2 Each Duplicate shall be distributed by the Grantee-

(a) with a copy of the Licence Conditions stipulated in the Issue Notice for the EDP;

(b) in an envelope or other similar enclosures and sealed with a label containing the following notice-

"Please read the attached "Licence Conditions for Electronic Dissemination Packages" (the Licence Conditions) before opening this package. If you open this package, you will be deemed to have read the Licence Conditions and to have accepted them. If you do not agree with the Licence Conditions, please do not open this package and do return the package to [name of Grantee and address]."

5. Internet Dissemination Service (IDS)

5.1 IDS shall only be provided through the Hosting Web Site specified in the Service Proposal.

5.2 An exact copy of all files in the EDP shall be available in the Hosting Web Site for downloading by Customer using IDS. The Grantee shall maintain the original file and directory structure of the EDP when disseminating the EDP through IDS.

Schedule 2 - Issue Notice for EDP**Issue Notice for EDP**

To- [Name and address of Grantee]

In accordance with Agreement No. [insert agreement no.] dated [insert date of agreement], I enclose the EDP Reference [insert EDP Reference] for Contract No. [insert contract no.] – [insert contract title] for your use in providing the Licensed Services. The Tender Closing Date is [insert tender closing date and time].

The Licence Conditions for using the EDP Reference [insert EDP Reference] are attached.

Please collect the above mentioned EDP at [address for collecting EDP].

If you wish to obtain further information about the contract, would you please contact [insert name of subject officer responsible for the tender] at telephone no. [insert telephone no].

Yours faithfully,

([Name])
for [Head of Department or Office Head]

Acknowledge Receipt of EDP
(to be completed by Grantee and returned to the issuing
office when collecting the EDP)

To- [Department]

We hereby acknowledge receipt of the EDP Reference [insert EDP Reference] and the Licence Conditions for using the EDP.

(chop of Grantee & date)
[Name of Grantee]

Schedule 3 - Return Notice for EDP

To: [Name of department to be inserted]
[Address to be inserted]

EDP Reference –[reference to be inserted]

We refer to the EDP Reference [insert EDP reference] issued with Issue Notice of [insert date of Issue Notice].

We wish to provide the following return on the distribution of the EDP-

No. of Duplicates made	
No. of Duplicates distributed	

We confirm that all undistributed duplicates have been destroyed. We also confirm that the EDP Reference [insert EDP reference] issued with the Issue Notice and the Relevant Files have been-

- permanently destroyed; or
- kept in this office as archive. We understand that the archive may be used for verifying the authenticity of duplicates of the EDP and for locating source of computer viruses. We undertake to seek the prior written approval of Environment, Transport and Works Bureau of the Government of Hong Kong Special Administrative Region for other uses.

The following Customers have obtained duplicates of the EDP-

[insert names and addresses of Customers]

The following Customers have downloaded the EDP through Internet Dissemination Service or Value-added Services-

[insert names and addresses of Customers]

Chop of Grantee

Signed for and on behalf of Grantee

Signature _____
Name _____
Designation _____
Tel. No. _____
Fax No. _____
Date _____
Address _____

Annex 4 to Appendix 6.34

Appendix [24] to the General Conditions of Tender Requirements for Tender Submission in Electronic Format

The following requirements apply if the tender submission is made in electronic format in accordance with Clause 4 of the General Conditions of Tender (GCT).

1. In this Appendix, unless the context otherwise requires-
 - (a) "CD-ROM" means write once CD-ROM media complying with ISO 9660 standard /and/or write once DVD-ROM in ISO/IEC 13346:1995 format/ ²⁵.
 - (b) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.
 - (c) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.
 - (d) "Electronic Submission Package" (or "ESP") means the collection of the following files hosted in a CD-ROM:-
 - (i) all electronic files forming part of the tender return submitted by a tenderer; and
 - (ii) supporting files containing information on using the files in Clause 1(d)(i) above.
 - (e) "Organizational e-Cert" means a digital certificate issued under the name of an organization by a recognized certification authority as defined under Section 2 of the Electronic Transactions Ordinance (Cap. 553).
 - (f) "Tender Addendum" means a set of documents and its attachments in the form of hard copy or electronic files issued before the Tender Closing Date to amend the tender documents.
 - (g) "Tender Closing Date" means the date and time set for the return of the tender.
 - (h) "Tender Documents" means the documents in the form of hard copy or electronic files issued for the tendering of Works Contracts, including:-
 - (i) the invitation to submit tenders and other documents issued together with it; and
 - (ii) Tender Addenda.
2. ESP shall be submitted on write once type CD-ROMs and all CD-ROMs should be clearly labelled or marked to indicate the tender reference, the name of the tenderer, and the disk number if more than one CD-ROM is submitted. Each

²⁴ Insert appendix number

²⁵ For use when the use of DVD-ROM is allowed for submission.

CD-ROM shall have a "README.rtf" file in the root directory prepared in Word Format. This file shall contain at least the following information:

- (a) general guidance on the use of the electronic files in the ESP (e.g. the file naming convention, directory structure of the CD-ROM, software name and version for viewing the file);**
 - (b) a list of all documents submitted in the ESP with the following information-**
 - (i) brief description of the contents of the document; and**
 - (ii) disk number (if the submission contains more than one CD-ROM) and filename with full path information for the Editable File and/or the Image File.**
 - (c) information on the proper setting for viewing, editing, and printing the electronic files, including, without limitations-**
 - (i) the printer to be used for printing the files;**
 - (ii) the paper sizes;**
 - (iii) requirements for special fonts;**
 - (iv) any special printing instructions (e.g. the adjustment settings such as "Shrink oversized pages to paper size", "Expand small pages to paper size", etc. when printing PDF files); and**
 - (v) software name and version for viewing the digitally signed files.**
- 3. ESP for the tender shall be submitted in two copies such that one copy of the ESP shall be clearly stamped "ORIGINAL" and the copy of the ORIGINAL ESP shall be clearly stamped "COPY" respectively on the CD-ROM labels.**
 - 4. Tenderers shall only use the write once type CD-ROM media for the preparation of ESP. Re-writable media shall not be used. The CD-ROM shall be logically closed such that no subsequent change can be made to the ESP.**
 - 5. CD-ROM shall be properly packed and protected to avoid physical damage during the tender submission process.**
 - 6. The CD-ROMs and the electronic files of an ESP shall not contain any computer instructions, including but not limited to –**
 - (a) computer viruses / malware; and**
 - (b) macros, scripts and fields that depend on the execution environment and the execution of which will cause changes to the electronic file itself or the information system displaying the electronic record.**
 - 7. Tenderers shall submit documents in electronic form using the data formats²⁶ stipulated as follows-**

²⁶ **Internal Note for procuring departments :** The data formats and associated versions of documents / files to be adopted in ESP's should be updated as appropriate and should adhere to the latest OGCI O Interoperability Framework which can be downloaded from the OGCI O website:
https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html

Type of Document	Editable File Format	Image File Format	Remark
Bills of Quantities; Schedule of Rates	Microsoft Excel format (.xls) ISO/IEC 29500:2008 format (.xlsx)	Not applicable	Please also read paragraphs 0 to 12 below.
Other Schedules	Microsoft Excel format (.xls); or ISO/IEC 29500:2008 format (.xlsx)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)	Please also read Note 1 and Note 2 below.
Text documents	Rich Text Format; or Microsoft Word format (.doc); or ISO/IEC 29500:2008 format (.docx)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)	Please also read Note 1 and Note 2 below.
Drawings	Microstation DGN format; ²⁷ AutoCAD format; Autodesk Drawing Exchange Format (DXF); or Initial Graphic Exchange Specification (IGES)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)	Please also read Note 1 and Note 2 below.
Building Information Modelling (BIM)	<i>(Procurement Department to define and insert)</i>	Not Applicable	Please also read Note 3 below.
Animation	HTML5	Not applicable	Please also read Note 2 and 4 below.

²⁷ Either AutoCAD or Microstation may be deleted if the receiving department cannot support the drawing file format.

Type of Document	Editable File Format	Image File Format	Remark
Video, movie	MPEG-1 (ISO 11172) MPEG-4 (ISO 14496)	Not applicable	Only raw MPEG-1 or MPEG-4 file is accepted. File format in VCD/DVD video disc directory structure is not acceptable and will not be considered. Please also read Note 2 and 4 below.
Slide presentation	Microsoft PowerPoint format (.ppt); or ISO/IEC 29500:2008 format (.pptx)	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)	Please also read Note 1 below.
Other types of documents, including scanned documents or scanned drawings	Not Applicable	Adobe Portable Document Format (PDF) v1.5, 1.6 or 1.7 (ISO 32000-1)	Please also read Note 2 below.

Note 1: If both types of format of a document are submitted inadvertently, only the Image File will be considered for evaluation.

Note 2: If more than one file format are specified, files need to be provided in one of the specified formats only.

Note 3: For files generated by BIM, please refer to the file format required for the respective types of documents.

Note 4: Please ensure that appropriate viewers / codecs are openly accessible to the tenderers (e.g. as freeware downloadable from the Internet), and should provide a pointer to the viewer / codecs as necessary.

8. As the conversion of drawing files to Adobe Portable Format (PDF) may slightly distort the scale of the drawing elements, line scales in both horizontal and vertical directions should be included in drawings files to enable correction factors to be made to compensate for distortion.
9. For the avoidance of doubt, Bills of Quantities and Schedule of Rates shall only be submitted in Editable File format, i.e. the Excel format.
10. Tenderers shall prepare the electronic files for Bills of Quantities and Schedule of Rates using the electronic files in Excel format in the Tender Documents

provided by the Employer. Tenderers shall not modify cells that are locked and protected, failing which shall constitute a qualified tender.

- 11. If the Tender Documents provided by the Employer does not contain the electronic files of Bills of Quantities and Schedule of Rates in Excel format, tenderers shall submit their Bills of Quantities and Schedule of Rate in hard copy format using the hard copy Tender Documents supplied by the Employer.**
- 12. Notwithstanding paragraph 6 above, the electronic files for Bills of Quantities and Schedule of Rates may contain simple arithmetic for automatic calculation of the totals and sub-totals. However, any reference made in the arithmetic formula shall be within the same file and the automatic calculation shall not be dependent on other files.**
- 13. File compression programs should not be used to compress files.**
- 14. All electronic files in the ESP submitted under the tender shall be digitally signed in accordance with Section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in Section 6 of that Ordinance. Organizational e-Cert issued under the name of the tenderer shall be used for the purpose of applying digital signatures. The Organizational e-Cert corresponding to the digital signatures must be valid as at the Tender Closing Date. The list of recognized certificates is available at OGCIO's website: https://www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs.**

**APPENDIX 6.35 SAMPLE MEMO TO PSGO FOR APPROVED PROJECT
ESTIMATE / ESTIMATED COST OF THE PROJECT FOR THE
CONTRACT**

**RESTRICTED
MEMO**

<i>From</i>		<i>To</i>	Secretary for Development
<i>Ref.</i>	<i>in</i>	<i>(Attn.:</i>	CAS(W)1
<i>Tel. No.</i>		<i>Your ref.</i>	<i>in</i> DEVB(PSGO)38/05
<i>Fax. No.</i>		<i>Dated</i>	27 June 2022
<i>E-mail</i>		<i>Fax No.</i>	2537 1961
<i>Date.</i>		<i>Total Pages</i>	

**PWP Item xxxx – (Project Title)
Contract No. xxxx – (Contract Title)**

**Sum allowed in Approved Project Estimate /
Estimated Cost of the Project for the Contract**

I refer to your memo dated 27 June 2022 and hereby notify that the captioned contract is planned to invite tender on *[Date]*. Please find below the information pertaining to the contract:

Approved Project Estimate / Estimated Cost of the Project*	HK\$XXX
Sum allowed in Approved Project Estimate / Estimated Cost of the Project for the Contract*	HK\$XXX
Pre-tender estimate of the contract	HK\$XXX

* delete as appropriate

(Office Name)
[Organisation]

APPENDIX 6.36 SAMPLE MEMO TO PSGO FOR RETURNED TENDER PRICES OF THE CONTRACT

RESTRICTED MEMO

<i>From</i>	<i>To</i> Secretary for Development
<i>Ref.</i> <i>in</i>	<i>(Attn.:</i> CAS(W)1
<i>Tel. No.</i>	<i>Your ref.</i> <i>in</i> DEVB(PSGO)38/05
<i>Fax. No.</i>	<i>Dated</i> 27 June 2022
<i>E-mail</i>	<i>Fax No.</i> 2537 1961
<i>Date.</i>	<i>Total Pages</i>

PWP Item xxxx – (Project Title)
Contract No. xxxx – (Contract Title)

Returned Tender Prices of the Contract

I refer to your memo dated 27 June 2022 and hereby notify that the tender was invited on [Date] and returned on [Date] with [no.] of tenders received. Please find below the information pertaining to the three highest combined score tenders:

Approved Project Estimate / Estimated Cost of the Project*	HK\$XXX
Sum allowed in Approved Project Estimate / Estimated Cost of the Project for the Contract*	HK\$XXX
Pre-tender estimate of the contract	HK\$XXX

Combined Score Tenders	Corrected / Uncorrected* Tender Prices/ Forecast Total of the Prices*
1 st	HK\$XXX
2 nd	HK\$XXX
3 rd	HK\$XXX

* delete as appropriate

(Office Name)
[Organisation]

APPENDIX 6.37 STANDARD FORM ON “DECLARATION AND UNDERTAKINGS BY CONSULTANTS’ STAFF INVOLVED IN TENDER EXERCISE OF WORKS CONTRACTS”
(Ref. SDEV’s memo ref. () in DEVB(PS) 106/43 dated 11.4.2023)

[Consultancy Agreement Reference and Subject]

[Tender Reference and Subject]

To: The Government of the Hong Kong Special Administrative Region (“Government”)

I, [full name of staff], [post title], hereby declare that there is no conflict of interest, whether actual, potential or perceived, between the roles and duties assigned to me by [Name of Consultants[#]] in relation to the captioned tender exercise under the captioned Consultancy Agreement (hereafter refer to “my Duties”) and my financial, professional, commercial, personal or other interests.

I undertake to —

- (a) hold in strict confidence all tender information that I have access to through my Duties. Tender information includes, but is not limited to, details of tenders received and any other sensitive, restricted or confidential information relating to a tender;
- (b) refrain from making any unauthorised disclosure or taking advantage of any tender information referred to in paragraph 2(a) above whether or not for personal gain;
- (c) declare any actual, potential or perceived conflict of interest with my Duties immediately when I become aware of any such conflict;
- (d) cease to perform any of my Duties immediately when I become aware of a conflict of interest described in paragraph 2(c) above, until otherwise instructed by the Government;
- (e) take steps to avoid any conflict of interest with any potential tenderer or tenderer by not putting myself in a position of obligation towards any of them; for example, by not accepting any favour or lavish or excessive entertainment, and not over-socialising with any of them;
- (f) perform my Duties on a professional and impartial basis in accordance with applicable professional standards in the Hong Kong and international markets; and
- (g) not to offer, solicit or accept any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201 of the Laws of Hong Kong) in relation to my Duties.

2. The undertakings in paragraphs 2(a) and (b) above shall not apply —

- (a) if and when the disclosure and information therein referred to becomes a matter of public knowledge (other than by reason of a breach of paragraphs 2(a) and (b) above);
- (b) to any communications or disclosures caused or permitted by me to the public officers of the Government who are or are expected to be involved in the course of their official duties in the captioned tender exercise or parts thereof;

- (c) to any communications or disclosures caused or permitted by me to other staff of **[Name of Consultants#]** who are or are expected to be involved in the course of their duties in the captioned tender exercise or parts thereof under the captioned Consultancy Agreement; or
- (d) to disclosures of any information in circumstances where such disclosure is required pursuant to any law, regulation, rule of any relevant stock exchange, or order of a court or arbitral authority of competent jurisdiction.

2. I agree that in the event of any breach or threatened breach of the provisions of this Declaration and Undertakings, money damages are unlikely to be a sufficient remedy and the Government shall be entitled, in the discretion of the court, to an injunction to restrain the said breach or threatened breach in addition to and not in lieu of any other equitable or any legal relief including damages.
3. Each of the provisions of this Declaration and Undertakings is severable and distinct from the others and, if one or more of such provisions or any part thereof is or becomes illegal, invalid or unenforceable, the legality and enforceability of the remainder of this Declaration and Undertakings shall not be affected or impaired in any way.
4. This Declaration and Undertakings shall be subject to and construed in accordance with the laws of Hong Kong.

In witness whereof, this Declaration and Undertakings has been executed and delivered as a deed on the date written below.

Signed, sealed and delivered)	
by <i>[full name of staff]</i> on <i>[date]</i>)	<i>[signature of staff]</i>
as his deed in the presence of)	<i>[affix seal]</i>

[Signature of witness]

Name: *[witness name]*

Address: *[witness address]*

If the Consultants who undertake the captioned consultancy agreement are in a form of joint venture, please insert the name of the joint venture.

Amd No. 1/2024