



File Ref.: CEDD T 4/36/1

31 July 2009

**Civil Engineering and Development Department (CEDD)  
Technical Circular No. 07/2009**

**Response to Contractor's Request for Mediation**

**Introduction**

This technical circular (TC) sets out the procedures for seeking the approval of the Director of Civil Engineering and Development (DCED) in responding to a Contractor's request for mediation.

**Effective Date**

2. This TC takes immediate effect.

**Effect on Existing Circular**

3. This TC supersedes CEDD TC No. 14/2004 which is hereby cancelled.

**Background**

4. In accordance with Works Bureau Technical Circular (WBTC) Nos. 4/99 and 4/99A, the authority to accept or reject the Contractor's request to mediate a dispute rests with the DCED.

**Procedure**

5. Upon receipt of the Contractor's request for mediation, the Deputy Head of Office responsible for the contract is required to:-

- (a) notify the DCED immediately, with a copy to the relevant Senior Engineer/Contract Adviser (SE/CA), Headquarters (HQ). The relevant SE/CAs are listed below:-

<u>Senior Engineer/ Contract Adviser</u>	<u>Office/Division</u>
SE/CA(1)	Fill Management Division and Port Works Division of Civil Engineering Office and all divisions of Geotechnical Engineering Office
SE/CA(2)	Boundary Control Point Division, Land Works Division and Special Duties (Works) Division of Civil Engineering Office, New Territories North and West Development Office and Landscape Unit of the Headquarters
SE/CA(3)	Hong Kong Island & Islands Development Office, Kowloon Development Office and New Territories East Development Office

- (b) make a recommendation to the DCED through the Head of Office, after studying the dispute in detail and having consulted the Legal Advisory Division (Works) of the Development Bureau via the relevant SE/CA, on either to accept or reject the request for his approval. The recommendation should include the following details:-
- (i) a brief description of the Contract and its current status (such as the percentage of completion of the Works, original and forecast completion dates, the assessed amount of liquidated damages to be deducted, if any, etc.);
  - (ii) a brief description of the dispute and the arguments of the parties on the dispute, in particular the strengths and weaknesses on the part of Government's arguments on the dispute;
  - (iii) the reasons why the mediation request should be accepted or rejected;
  - (iv) the following additional information, if the Works have been certified complete but the final account is outstanding or if it is considered appropriate:-

- (1) a summary of all claims submitted by the Contractor and their present status;
- (2) other existing or potential disputes and their present status;
- (3) proposals for early settlement of these claims and disputes;  
and
- (v) a financial statement detailing payments made to date, payment outstanding, estimated final contract sum, APE status, etc.

6. The Deputy Head of Office responsible for the contract shall respond to the Contractor within 28 days of receipt of the request for mediation from the Contractor.

### **Enquiries**

7. Enquiries on this TC should be addressed to the relevant Senior Engineer/Contract Adviser, CEDD HQ.

### **References**

8. (a) [WBTC No. 4/99 - Construction Mediation Rules \(1999 Edition\) and Administrative Guidelines](#)
- (b) [WBTC No. 4/99A - Construction Mediation Rules \(1999 Edition\) and Administrative Guidelines](#)

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