

**LEGISLATIVE COUNCIL
PANEL ON PLANNING, LANDS AND WORKS**

Exhibition Gallery under the Tamar Development Project

Introduction

Some Members asked for an assessment on the feasibility and implications of removing the Exhibition Gallery from the scope of the Tamar Project at this stage. The Tamar Project comprises the Central Government Complex, LegCo Complex, Exhibition Gallery and Civic Place. The Exhibition Gallery is an integral part of this whole Project and an important element of the new civic core planned for the Tamar site. This note summarizes the assessment result.

WTO Agreement on Government Procurement

2. We are well into the procurement process following completion of the prequalification exercise late last year and when the actual tender will commence shortly in May 2003. The prequalification was conducted based on the premise that the Exhibition Gallery would form an essential and integral element of the Tamar Project.

3. Under the WTO Agreement on Government Procurement (GPA), any change in the tender should not affect the nature or scope of the project in such a way as to undermine the validity of the prequalification exercise as the basis for identifying suppliers with the necessary capabilities to undertake the contract in question. Accordingly, where the removal of the Exhibition Gallery from the Tender Document would result in the original prequalification requirements becoming irrelevant or too stringent for the contract under the revised project scope, the Government should conduct prequalification again with the revised prequalification requirements.

4. In any event, as the removal of the Exhibition Gallery would amount to a change in project scope, a supplier who did not participate or was not successful in the earlier prequalification exercise may argue that the exercise is no longer a suitable basis of prequalification for the contract under the revised scope and may press the Government to conduct a new prequalification exercise, failing which he may initiate a bid challenge

under established procedures against the Government under the GPA. It should be noted that the Review Body on Bid Challenges has the power to recommend rapid interim measures, including suspension of the procurement process or award, or suspension of implementation of contract pending final determination of the bid challenge.

5. In the event of a new prequalification exercise or rapid interim measures recommended by the Review Body on Bid Challenges, there could be very significant implications on the work programme and target completion date of the Tamar Project as a whole.

Other Implications

6 Subject to the caveat that the validity of the original prequalification exercise is not undermined, the Tender Document may contain variations from that stated in the Prequalification Document. Nevertheless, we would need time to rework the Tender Document and hence would not be able to issue the Document in May 2003 as scheduled. The target date for commencement of work on site would also be affected.

7. Without the Exhibition Gallery, we cannot achieve optimal utilization of the development potential of the Tamar site. This is not advisable. As for the Exhibition Gallery itself, even if we were able to identify an alternative site of appropriate size at a convenient location to the public, it would be difficult to achieve economy of scale in the construction cost if it were detached and were not part of a mega project such as Tamar.

Integrity of the Civic Core

8. As explained in the separate submission to the Panel on the proposed Tamar development, the Exhibition Gallery will be a focal point for the community and overseas visitors to learn more Hong Kong's infrastructure projects and development plans. It complements the Civic Place and the future waterfront promenade in providing an excellent resource facility for the community. It is an integral element of Hong Kong's prime civic core planned for the Tamar site. The Government does not have any intention, or consider it appropriate, to remove this essential civic element from the Tamar project.

Chief Secretary for Administration's Office
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