

6 December 2004

The The Hon Mrs Rita FAN HSU Lai-tai, GBS, JP
Room 109
Legislative Council Building
8 Jackson Road
Central
Hong Kong

West Kowloon Cultural District(WKCD) Project

At the meeting of the LegCo Panel on Planning, Lands and Works held on 30 November, Members asked the Administration to disclose the financial information contained in the proposals for the development of the WKCD. I explained at the meeting that it would be irresponsible for the Government to disclose such information before negotiation was concluded. I fully appreciate Members' concern, but the integrity of the assessment and negotiation process, as well as the wider public interests are at stake. Let me respectfully reiterate the reasons for non-disclosure at this stage and how we could account for the financial information satisfactorily to the public, as soon as it is safe to do so.

First, the financial information submitted by the proponents is commercially sensitive. We cannot unilaterally disclose such information without their consent. I wish to stress that it is common business practice supported and relied upon by bidders and tenderers that funding, costs and price negotiations are highly sensitive and usually kept confidential. The Government has pledged in the Invitation for Proposals (IFP) to take reasonable steps to keep secret and confidential commercially sensitive information. Nor can we disregard the common law obligations to keep confidential commercially sensitive financial information.

Second, we have yet to negotiate with the proponents to obtain the best offers. If we disclose the financial information now, the proponents will know what their competitors have offered. The competitive tension which we need to secure the best deal will be undermined. The proponents, especially the one who knows that its offer is higher than others, may be reluctant to enhance their proposals. This would significantly weaken Government's bargaining power in the negotiations.

Third, if the financial information is disclosed at this stage, proponents knowing the price offers of other proponents may revise downwards their offers in the ensuing negotiations with Government or collude in doing so. It would not be in the public interest for this to happen.

Fourth, the proponents may only agree to disclose selected financial information which would be to their advantage and withhold information to their disadvantage. Selective disclosure would be misleading since the public would not be presented with a full picture of the financial proposals.

Fifth, such selected financial information may be distorted by the underlying assumptions, such as cost and revenue estimates, which are still being assessed by Government and would likely be a matter relevant to future negotiations. Disclosure of the financial information without the full knowledge of the underlying assumptions would not help the public understand the proposals.

In the light of the serious consequences, we have considered the issue carefully and concluded that we should not disclose the financial information at this stage. Access to sensitive data of the proposals is now restricted to those who are bound by strict rules of confidentiality and who are directly involved in the assessment process. Pre-mature disclosure of the financial information of the proposals will prejudice the negotiations and will be against the public interests.

To meet the wish of Members and the public to know the financial information, we have now planned to disclose, before signing a provisional agreement with the successful proponent, all relevant financial information of all the screened-in proponents to the full extent and as soon as disclosure would not compromise or prejudice the Government's negotiation position. This disclosure will include the proponents' financial offers submitted on 19 June 2004 and any subsequent revised financial offers submitted by them. The extent of the disclosure will of course be subject to the consent of the proponents concerned.

(Donald Tsang)
Chief Secretary for Administration