

For information

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

**SUBCOMMITTEE TO REVIEW THE PLANNING FOR THE
CENTRAL WATERFRONT (INCLUDING THE TAMAR SITE)**

Tamar Development Project

Purpose

The Government has been invited to attend a meeting to discuss the Tamar Development Project. The following explains our position on the subject.

Tender Brief

2. Having secured funding approval from the Finance Committee of the LegCo in June 2006, the Government invited tenders for the Tamar Development Project in September 2006. The project covers the provision of no less than two hectares of open space, along with a government complex and a LegCo Complex. Given the scale and complexity of the project, the tender document contains 15 volumes spanning some 6 000 pages.

3. In line with established policy, the tender document is open for public inspection. It sets out all the requirements for the project including the architectural, structural, building services, planning, environmental protection, energy efficient aspects, etc. The requirements for the LegCo Complex were prepared by the LegCo Secretariat and endorsed by the LegCo Commission before they were eventually incorporated in the tender document.

Legislative Council Complex

4. Section C in Part II of the Employer's Requirements of the tender document contains the detailed architectural requirements for the LegCo Complex. It includes the overall design objectives, the schedule of accommodation and the comprehensive arrangements for the facilities and office establishments in the new LegCo buildings. In accordance with the requirements endorsed by LegCo Commission, specific requirements such as the function, image, design, location, access, area requirements, lighting, audio-visual and IT provisions of all the facilities including the chamber, ante-chamber, conference rooms, main entrance foyer, souvenir kiosk, production room, dining hall, president suite, cafeteria, waiting room, number of car parks and provision for future expansion, etc. are clearly stipulated. The tender document also provides for the IT/ telecommunications, building services, security, and other related specifications peculiar to the LegCo Complex.

5. As LegCo is one of the users of the project, we have sent five full sets of the tender document to the LegCo Secretariat to facilitate easy perusal by LegCo Members and secretariat staff.

Integrity of the tender process

6. The Government is committed to ensuring the integrity of the tender process. Moreover, as a member of the World Trade Organisation Agreement on Government Procurement, the Government is obliged to conduct the tender process in a fair and non-discriminatory manner. The Government has been particularly vigilant in handling every single detail of the Tamar tender because it involves the sensitive commercial interests of four tenderers and over 100 sub-contractors and consultants.

7. The bids submitted by the four tenderers in response to our tender document are substantial both in terms of volume and technical details. Tenderers are not allowed to amend their tenders after the tender closing date (16 February 2007). If we were to allow tenderers to divulge or explain their tender proposals to the public or other parties, it would be tantamount to giving them permission to promote their

proposals. It is hard for the Government to monitor whether they have used any inappropriate tactics to sell their designs. There is also no guarantee that their claims are consistent with their tender submissions. Neither is it easy to track the authenticity of these claims. This may mislead the public or create false expectations, and may cause unsuccessful tenderers to instigate legal challenges concerning the fairness of the tender process. It is equally inappropriate for the Government, above and beyond what are specified and listed in the tender document, to speak on the tender details, lest we may be perceived as favouring any particular tenderer or misrepresenting any tender details.

Public viewing exercise

8. Whilst tender evaluation, whether in the private or public sector, is a process typically confined to tender board members on a strict need-to-know confidential basis, we have agreed to make an exception for the Tamar Development Project provided nevertheless that the level playing field in, and the all-important integrity of, the tender evaluation process must **not** be compromised. The two-month public viewing exercise must be viewed in this light, amidst a tender evaluation under way.

9. As a prospective Employer, the Government has advised all relevant parties including the tenderers, personnel related to tender evaluation and the media to avoid, during the tender stage, any comments or moves that may prejudice or be perceived as prejudicing the fairness and integrity of the public viewing exercise and the tender exercise. We have also laid down clear stipulations in the tender document prohibiting tenderers from explaining their tender proposals to the public, or responding to any views or comments received from the public and the media in relation to their tender proposals during the tender period. The Government must be seen to be exercising like discipline during this crucial tender evaluation stage.

10. The platform for the public viewing exercise must be fair to all tenderers. We have thus specified standard requirements – requesting each of them to provide a physical model, 18 display boards and a five-minute video to highlight their design philosophy, key features and

merits of their proposals. As many of the tender details are subject to technical evaluation, we do not expect the public to comment on these. Rather, the focus of the comments sought is the design and aesthetic aspects of the designs. We believe the 18 boards and the videos on display already suffice as background viewing to enable the public to offer reasonably informed impressions of their design and aesthetics aspects. Other than visiting the exhibition venues, the public can also view and comment on the designs through the website at <www.tamar.gov.hk> or by fax, email or post on or before 27 May 2007. We have engaged an independent consultant to collate and analyse, in a fair and impartial manner, the public comments received during the exercise. The consultant will also conduct telephone polls and exit polls to triangulate the public views collected.

11. Whilst the Marking Scheme contained in the tender document does not accord a specific score to public views, the Special Selection Board for the Tamar Development Project will be required to have regard to the public views and impressions collated and analysed by the consultant and will exercise independent and impartial judgment in assessing the tenders. This is a procedural safeguard to ensure that the integrity and fairness of the tender process would not be affected by risks (e.g. risks of manipulation) arising from the public viewing exercise.

Planning application

12. We note the enquiries raised by Members on the circumstances necessitating a separate application to seek planning permission from the Town Planning Board prior to contract award. Please be assured that this is a fact which has been published in the publicly available prequalification document and all tenderers are aware of this. We have stressed the need to allow tenderers maximum design creativity and have made allowance for them to consider the best mix of no less than two hectares of open space and building developments within the 4.2-hectare site for the Tamar development. As explained in the tender document (Clause 19 of Special Conditions of Tender), if, after evaluation in accordance with the terms of the tender, the Employer intends to award the contract to a tenderer (normally the overall highest-scoring tenderer) whose design requires planning permission

pursuant to section 16 of the Town Planning Ordinance (Cap. 131), i.e. the building developments of the Tamar project falling within the “Open Space” zone on the Outline Zoning Plan, the Employer shall issue a non-binding letter of intent to such a tenderer. The tenderer named in the said letter of intent shall obtain the necessary planning permission as soon as possible within seven months from the date of the letter of intent. Subject to all the relevant provisions set out in the tender document, the contract shall be awarded to a tenderer holding a letter of intent and who has secured the necessary planning permission.

13. A section 16 application does not involve amendment to the Outline Zoning Plan. The application would be considered by Town Planning Board in accordance with the provisions of the Town Planning Ordinance within two months on receipt.

Post-tender briefing

14. Given the overriding need to preserve the fairness and perceived fairness of the tender process, we sincerely apologise for not being able to field the LegCo discussion with a government representative during this sensitive and critical period of tender evaluation.

15. That said, we can assure Members that the views of the public will not be taken lightly and that we would be in a position to provide a detailed update to the Council or the relevant Panel upon the award of the contract. We will also release the report of the consultant for the public viewing exercise as soon as practicable after contract award.

Administration Wing
Chief Secretary for Administration's Office
25 May 2007