



Web site 網址 : <http://www.ceed.gov.hk>
 E-mail 電子郵件 :
 Telephone 電話 : (852) 2762 5000
 Facsimile 傳真 : (852) 2246 8708
 Our reference 本署檔號 : () in CEED (CR) 11/39
 Your reference 來函檔號 : CB(3)/PAC/R50

土木工程拓展署署長
 Director of Civil Engineering
 and Development

香港九龍公主道 101 號
 土木工程拓展署大樓
 Civil Engineering and
 Development Building,
 101 Princess Margaret Road,
 Kowloon, Hong Kong

22 April 2008

Clerk, Public Accounts Committee,
 Legislative Council Building,
 8 Jackson Road,
 Central,
 Hong Kong.
 (Attn: Ms Serena CHU)

Fax: 2537 1204

Dear Madam,

**The Director of Audit's Report on the
 results of value for money audits (Report No 50)**

Chapter 7 : Works contracts for a Lantau development

I refer to your letter of 15 April 2008 regarding the claim submitted by Contractor A on the supply of sand for reclamation works. The reply to the Public Accounts Committee's enquiries is as follows (using your paragraph numbering):

- (a) The tender exercise for this project is of two stages, the prequalification stage and the tender stage. Prequalification is for the purpose of prequalifying a few contractors who are interested in and capable of undertaking a contract and to keep tendering cost to the minimum. The prequalified tenderers will be subsequently invited to submit their bids for the contract. The prequalification documents therefore set out the qualification and experience and expertise required to be fulfilled and other assessment criteria and also information on the contract to be tendered.

The information note containing information on sand supply relating to this project was attached to the prequalification document. There was no explicit exclusion of liability for such information nor explicit statement that the information provided was limited to the prequalification stage. At the time of resolving the claim and after obtaining legal advice, we came to the view that the department had potential liability in relation to the information note.

We welcome and will follow up the recommendation in paragraph 2.32 of the Director of Audit's report that in similar cases in future, we will consider including an explicit statement on exclusion of liability in prequalification documents after seeking legal advice.

- (b) The total final payment to Contractor A is slightly higher than the tender price of the next lowest bid. However, such a comparison may not be directly relevant as the next lowest bidder may also submit a similar claim should it be awarded the contract.
- (c) The lump sum settlement payment is related to the reclamation works at Penny's Bay which is within the scope of the project 662CL of the Capital Works Reserve Fund. The payment concerned was therefore charged to the subhead of 662CL.

Yours faithfully,



(John S V CHAI)

Director of Civil Engineering and Development

c.c. Secretary for Financial Services and the Treasury (Attn: Mr Joe Wong) 2147 5770
Director of Audit (Attn: Mr Albert Wong) 2583 9063