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GOVERNMENT LOGISTICS DEPARTMENT

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12 January 2015

Mr Anthony Chu
 Clerk to the Public Accounts Committee
 Legislative Council Complex
 1 Legislative Council Road
 Central, Hong Kong

Dear Mr Chu,

Public Accounts Committee
Consideration of Chapter 4 of the Director of Audit's Report No. 63
Administration of the air traffic control and related services

I refer to your letter dated 7 January 2015 regarding the procurement of air traffic management system. Our responses are set out in the ensuing paragraphs.

- (a) (i) *Based on what criteria and through what channels the supplier list of 45 local suppliers and 43 overseas suppliers for the ATMS tender exercise was compiled?*
 (ii) *What is the business nature of the suppliers in (i)?*

The Government Logistics Department (GLD) maintains lists of local and overseas suppliers of various goods and related services to facilitate the issue of tender notifications. Suppliers can apply for inclusion in the relevant GLD supplier lists according to the nature of goods/services they provide. The suppliers invited for this tender exercise included all the local and overseas suppliers of GLD listed under the product group of “radar apparatus, including navigational aid radars”.

- (iii) *Whether it is common for open tenders to have a low response rate, i.e. only five tenders proposals received after sending out more than 80 invitations?*

With a view to widening the source of supply and obtaining the most cost-effective tender proposals, the Government adopted open tendering in 2009 for the

procurement of the air traffic management system. Apart from publishing the relevant tender notice in the Government Gazette and on the website of GLD, the Government also invited those suppliers listed under the product group of “radar apparatus, including navigational aid radars” to participate in the tender exercise. Compared with previous open tenders for procuring highly specialised, complicated and technical system, the response rate of this tender is not considered low.

(b) The number of suppliers invited to submit proposals for the ATMS Autotrac I Tender in the early 1990s, and the number of tender proposals received.

The procurement of the Radar Data Processing and Display System (RDPDS), Flight Data Processing System (FDPS) and Simulator System (SIM) [collectively “the Air Traffic Management System” (ATMS)] in 1993 was arranged through two stages, i.e. a prequalification tender exercise and a restricted tender exercise.

During Stage 1, a prequalification tender exercise was arranged to invite interested suppliers to conduct a System Definition Study at no cost to the Government. CAD had arranged an open tender for the prequalification exercise. According to CAD’s record, 30 suppliers had been invited to tender and subsequently a total of 5 proposals were received.

Upon completion of the System Definition Study, CAD had shortlisted three suppliers. The then Government Supplies Department was requested by CAD to arrange a restricted tender exercise by inviting these three suppliers in Stage 2 for the implementation of the ATMS. As a result, all three invited suppliers submitted proposals for the Stage 2 tender in June 1994.

(c) Referring to Clause 8.4 of the Conditions of Tender for replacement of the ATMS that “a proposed System with no proven performance record will not be considered further”, how the phrase “proven performance record” should be interpreted.

The relevant tender document was prepared by CAD and vetted by GLD and the Department of Justice before tender invitation. In the interpretation of a tender document, a clause must not be considered in isolation, but must be considered in the context with relevant provisions of the document. As such, the wording “A proposed System with no proven performance record will not be considered further” in the last sentence of Clause 8.4 must not be taken out in isolation, but must be read in context with the wording and spirit in Clause 8.

Clause 8 is concerned with the provision of the tenderer’s track records. According to Clause 8.1, a tenderer shall provide track records to demonstrate its past experience and compliance with certain mandatory requirements for the purposes of

the Stage 2 assessment. According to Clause 8.2, a tenderer shall also provide track records including reference site(s) which the Government may conduct site visit when necessary, so as to evaluate the tenderer's compliance with the essential specifications for the purposes of the Stage 3 assessment.

There are four sentences in Clause 8.4. "A proposed System with no proven performance record will not be considered further" in the last sentence is a reference to the preceding sentence. According to the first two sentences of Clause 8.4, the Government may contact any users of the reference sites whose details are provided by the tenderer under Clause 8.2 for supplementary information, so as to prove that the tenderer has the capability to provide a system that can meet the essential specifications in the tender document. The third sentence of Clause 8.4 states that in the event that the reference from a user indicates the system proposed cannot meet with the essential specifications, the tenderer shall provide explanations and a new user reference to prove the performance of the system. Therefore, the "proven performance record" in the fourth sentence of Clause 8.4 refers to performance record of the system in the user reference in the previous sentence.

Yours sincerely,



(YIP Man-chung)

for Director of Government Logistics

- c.c. Secretary for Transport and Housing (Attn: Miss Monica CHEN)
Director-General of Civil Aviation (Attn.: Richard WU)
Secretary for Financial Services and the Treasury (Attn.: Ms Winky WONG)
Director of Audit