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GOVERNMENT LOGISTICS DEPARTMENT

10th Floor, North Point Government Offices

333 Java Road, North Point, Hong Kong

20 March 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 12 March 2015 regarding the procurement of air traffic management system.

For the information requested, we have prepared our detailed responses in the Attachment for your kind attention please.

Yours sincerely,

(YIP Man-chung)

for Director of Government Logistics

Encl.

- c.c. Secretary for Transport and Housing (fax no. 2523 9187)  
Director-General of Civil Aviation (fax no. 2910 6384)  
Secretary for Financial Services and the Treasury (fax no. 2147 5239)  
Director of Audit (fax no. 2583 9063)

## Attachment

(a)(i) information on GLD's usual practice for determining the compensation for large-scale/complex systems; and

### Reply:

In determining the liquidated damages for delays in the completion dates for large-scale/complex systems, it is the Government's practice that the user department will assess the genuine pre-estimate of loss of the concerned system on a case-by-case basis. The amount, subject to a cap, is set either at a fixed daily or weekly amount or percentage of the one-off cost / the contract value.

(a)(ii) compensation clauses in the tender for the procurement of the existing ATMS Autotrac I in 1993. If there were changes to the compensation clauses, the justifications for such changes;

### Reply:

A copy of the relevant contract conditions on liquidated damages for the last purchase of the existing ATMS (Autotrac I) is at Annex I. For the last and present purchases of the concerned systems, the methods of determining the liquidated damages in the contract conditions are generally the same, viz the Civil Aviation Department (CAD) determined the liquidated damages, subject to a cap, basing on the genuine pre-estimate of loss per day at that time. However, due to the different implementation plans of the two systems, the liquidated damages were based on the delays in the completion dates of different parts of the systems. In the last contract, the liquidated damages were based on the delays in the completion dates of the simulator and the system. Under the current contract, liquidated damages are based on the delays in the completion dates of Phases 1 and 2 of the system.

**\*Note by Clerk, PAC: Please see Appendix 26 of this Report for Annex I.**

(b) with reference to clause 8.1 to 8.4 of the Conditions of Tender to the procurement of the new ATMS regarding the track records requirements, please provide the following information:

(i) whether similar clause had been used in the conditions of tender in the procurement of other large-scale/complex systems. If yes, the relevant details of such tenders;

Reply:

Clauses 8.1 to 8.4 of the Conditions of Tender covered the requirements of the past experience of the tenderer or its sub-contractor, site visits to the factory and reference sites of the tenderer together with the relevant information to be submitted. According to our records, similar requirements will generally be set in the procurement of other large-scale/complex systems.

For the procurement of large-scale/complex systems or those which are mission-critical to user departments, the Government will include provisions in the tender for assessment of the tenderers' experience. Based on the specific aspects of the systems, the user departments will set the experience requirements which are considered relevant for assessing the tenderers' experience on a case-by-case basis, for example, the scale of similar systems handled and the staff's experience. Requirements on demonstration of the system, site visits to the factory and obtaining relevant information from reference sites will also be included in these purchases. However, as the technical specifications and applications of each system are different, the relevant requirements will also be different.

(ii) copy of similar provisions in the tender for the procurement of the existing ATMS (Autotrac 1) in 1993;

Reply:

The procurement method of the existing ATMS (Autotrac I) was different from the one adopted in the new ATMS. A two-stage approach was adopted in the selection of tenderers for the provision of the existing ATMS (Autotrac I). The first stage was to prequalify the tenderers. In the second stage of the tender exercise, those prequalified tenderers were invited to submit tenders.

CAD was responsible for the pre-qualification exercise in the first stage. The relevant clause on the experience requirements of the tenderers provided by CAD is attached at Annex II. As for the second stage, the relevant provision on the demonstration arrangement is at Annex III.

(iii) whether the description “A proposed System with no proven performance record will not be considered further” in Clause 8.4 was included in the first draft of the Tender documents submitted by CAD to GLD. If no, the details on how this description was included in Clause 8.4;

Reply:

In the first draft of the tender documents submitted by CAD to GLD, Clause 8.4 read as “**A proposed System with no proven performance (that meet the requirements in the Specifications) will not be considered further.**” This sentence was subsequently amended during the drafting process to make it more clear and concise.

(iv) whether the description referred to in (iii) above had been used in the procurement of other large-scale/complex systems. If yes, the relevant details of such tenders, including how the description had been incorporated in these procurement exercises;

Reply:

According to our records, the exact description of “A proposed System with no proven performance record will not be considered further” had not been used by the Government in the procurement of other large scale/complex systems.

(v) number of enquiries received on the interpretation of Clause 8 before the Tender Closing Date and from tenderers.

Reply:

According to our records, there was no enquiry on the interpretation of Clause 8 before the Tender Closing Date from the tenderers or other companies except that a tenderer enquired about the type of air traffic controller working positions under Clause 8.1 of the Conditions of Tender.

The Company Profile information requested as part of the Executive Summary shall include the following details:

1. Company Information.
  - Name and address of the Company/Business organisation;
  - Length of business experience;
  - Shareholders/Partners of the Company/Business Organisation;
  - Names and residential addresses of the following:
    - Managing Director/Partners
    - Other Directors
    - Sole Proprietor
  - Names and addresses of bankers who are prepared to provide references, recent balance sheets, profit and loss accounts or other relevant financial data which will indicate the financial viability of the Tenderer; and
  - A copy of the Memorandum and Articles of Association or other documents providing evidence of the business status.
2. The Tenderer must have had extensive experience in the development and implementation of computerised RDPDS, FDPDS and SIM systems and must have sufficient expertise to implement the required system in the time specified and to provide the required post-implementation services. As evidence of this experience, the Tenderer shall provide a list of users of systems similar to the proposed system which it has supplied within the last ten years. For each user the following information is required:
  - Name of User;
  - Name, address and telephone number for contact;
  - Summary of hardware and software used and its inter-connection;
  - Date of installation;
  - Date of commissioning; and
  - Serviceability/availability figures for the previous 12 months.
3. The Offer to be Bound set out in Part VIII of this Tender Document must be signed by the Tenderer's authorised signatory (or signatories), and suitable written evidence of his (or their) authority to sign the Tender Document on behalf of the Tenderer should be included in the Tender.

17. Separate Offers

17.1 The tenderer acknowledges that the Government may elect at its sole option to accept all or any part of the tenderer's offers and that the Government has sole discretion whether or not to accept any tender irrespective of its price.

18. Tenderer's Commitment

18.1 All tenders, information and responses from each tenderer must be submitted in writing. The relevant provisions of this tender document and any documents so submitted by the tenderer shall be treated as a material representation of the tenderer.

19. Free Demonstration

19.1 During the tender validity period, the tenderer shall make available the equipment specified in the tenderer's proposal for demonstration at a location specified by the Government within 14 days after receipt of a request from the Government for such demonstration. The tenderer acknowledges that it shall be in the Government's sole discretion whether or not to request such demonstration.

20. Assessment of Tender Prices

20.1 The tender prices will be assessed on the basis of capital costs plus the running costs, licence fees and other charges.

21. Award of Contract

21.1 The Government is not bound to accept any of the tenders submitted or to award any contract. In evaluating the tenders submitted, the Government is not bound to accept the lowest tender. The award of a contract, if made, will be made to the tenderer who is determined by the Government to be fully capable of undertaking the contract and whose tender is determined by the Government to be the most advantageous.

22. Consultant

22.1 Tenderers are informed that the Government has appointed Hughes Systems Pacific Limited, a wholly owned subsidiary of Hughes Aircraft Company, as Project Management Consultant (PMC) for the Chek Lap