

立法會
Legislative Council

LC Paper No. FC210/17-18
(These minutes have been
seen by the Administration)

Ref : FC/1/1(26)

Finance Committee of the Legislative Council

Minutes of the 53rd meeting
held at Conference Room 1 of the Legislative Council Complex
on Thursday, 22 June 2017, at 4:44 pm

Members present:

Hon CHAN Kin-por, BBS, JP (Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP

Hon POON Siu-ping, BBS, MH
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim
Dr Hon LAU Siu-lai

Members absent:

Hon Michael TIEN Puk-sun, BBS, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Charles Peter MOK, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Dr Hon CHIANG Lai-wan, JP
Hon HO Kai-ming

Hon SHIU Ka-chun
Hon Tanya CHAN
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, MH, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

Public officers attending:

Ms Elizabeth TSE Man-yee, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Mr Raistlin LAU, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) ³
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Mr LAU Kong-wah, JP	Secretary for Home Affairs
Mrs Betty FUNG CHING Suk-yee, JP	Permanent Secretary for Home Affairs
Mr YEUNG Tak-keung, JP	Commissioner for Sports, Home Affairs Bureau
Ms Linda LAW Lai-tan	Principal Assistant Secretary for Home Affairs (Recreation and Sport) 2

Other persons attending:

Mr Michael CAMERLENGO	Director (Infrastructure Advisory), KPMG
Mr Ramsey YU	Manager (Infrastructure Advisory), KPMG
Mr Peter WEILEY	Principal and Branch Manager, Advisian

Clerk in attendance:

Ms Anita SIT

Assistant Secretary General 1

Staff in attendance:

Ms Ada LAU

Senior Council Secretary (1)7

Mr Raymond SZETO

Council Secretary (1)5

Mr Frankie WOO

Senior Legislative Assistant (1)3

Ms Michelle NIEN

Legislative Assistant (1)5

Action

Item No. 1 — FCR(2017-18)14

**RECOMMENDATION OF THE PUBLIC WORKS
SUBCOMMITTEE MADE ON 31 MAY 2017**

PWSC(2017-18)2

Head 703 — BUILDINGS

Recreation, Culture and Amenities — Sports facilities

272RS — Kai Tak Sports Park

The Finance Committee ("FC") continued with the deliberation on item FCR(2017-18)14.

Procurement model

2. Dr YIU Chung-yim considered that information concerning the four successful examples of overseas major stadiums developed under the "Design-Build-and-Operate" ("DBO") approach as cited by the Administration was inaccurate. Quoting the World Bank's definition of the DBO approach, he pointed out that private sector financing was a feature of such an approach, while the difference between the DBO and the "Build-Operate-and-Transfer" ("BOT") approaches lied in the mode of financing. However, the DBO approach adopted in the funding proposal did not involve any private sector financing. Mr WU Chi-wai, Dr LAU Siu-lai and Mr LEUNG Kwok-hung shared Dr YIM's concerns. Mr WU also sought information on the specific features of the DBO procurement approach currently proposed by the Administration, while Dr YIU and Mr LEUNG urged the Administration to consider introducing private sector financing for the project.

[*Post-meeting note:* The Chinese and English versions of the supplementary information provided by the Administration were issued to members vide LC Paper Nos. FC238/16-17(01) and FC253/16-17 on 19 July 2017 and 14 August 2017 respectively.]

3. The Director (Infrastructure Advisory), KPMG ("D(IA)/KPMG") responded that the DBO approach as adopted by different places and organizations (including the World Bank) would have different features, yet the basic principle remained the same, namely, to develop an integral proposal through consolidating the expertise in respect of the design, construction and operation of the project. He also pointed out that the major difference between the DBO and BOT models was their different contractual frameworks. The Secretary for Home Affairs ("SHA") supplemented that private sector financing was involved in the construction of both the AsiaWorld-Expo and Hong Kong Disneyland projects, yet the results were not satisfactory.

4. Mr Nathan LAW noted that for some overseas projects implemented through the DBO approach, the cost was partly met by private sector financing. He thus queried the need for the Government to bear the full project cost of the Kai Tak Sports Park ("KTSP"). He was also concerned that with the project costs fully funded by the Government, the Contracted Party would be deprived of the incentive to operate KTSP proactively and might inflate the design and construction costs. Mr LAW also enquired about the reasons why the Administration had estimated that should the KTSP project be implemented through a joint venture ("JV") procurement model, the JV parties would only need to bear about 5% of the costs.

5. The Permanent Secretary for Home Affairs ("PSHA") responded that in 2014, the Government had commissioned the PricewaterhouseCoopers Advisory Services Limited to conduct a consultancy study on the procurement and financing options for the KTSP project. The then conclusion was that the investment return of KTSP was unlikely to be attractive enough for the private sector. As such, the Government decided that the KTSP project should be implemented under the Public Works Programme. Moreover, the consultancy report also pointed out that if the JV procurement model was adopted for KTSP, 95% of the capital cost would be borne by the Government. Thus, the decision was made for KTSP to be wholly owned by the Government so that it would have full control of the direction of development. At Mr Nathan LAW's request, PSHA undertook to provide members with the said consultancy report after the meeting. D(IA)/KPMG added that if private

investment was to be introduced for KTSP and the project experienced cost overruns, additional funding might have to be raised in future through debt or equity financing which could create pressure on KTSP's operating return, and might bring about negative impact on the project's financial sustainability.

[Post-meeting note: The Chinese and English versions of the supplementary information provided by the Administration were issued to members vide LC Paper Nos. FC238/16-17(01) and FC253/16-17 on 19 July 2017 and 14 August 2017 respectively.]

6. Mr CHU Hoi-dick noted that according to the Administration's estimates, there would be 13 event days in KTSP's Main Stadium per year if the project was to be implemented through the "design and build, then operate by Government" ("DBG") approach. He sought details about those 13 event days, as well as the basis of the Administration's estimation. Pointing out that the Administration's income and expenditure estimates for KTSP under the DBG approach were too conservative, Mr CHU asked whether the Administration could conduct another estimation exercise.

7. In response, the Commissioner for Sports, Home Affairs Bureau ("C for S") pointed out that of the said 13 event days, it was assumed that three event days would be for entertainment activities, seven event days for sports activities and the remaining three event days for community activities. PSHA added that the relevant estimates were derived by the Government after consulting the local entertainment industry. She also pointed out that given the significantly increased seating capacity of KTSP's Main Stadium as compared with existing major venues, it was expected that foreign singers would be attracted to hold concerts in the Main Stadium if KTSP was to be operated by the private sector. Hence, the total number of event days for entertainment activities would be more than three. Regarding the income and expenditure assumptions under the DBG approach, PSHA said that as the figures concerned were derived by the Operations Consultant after consultation with the relevant sectors, the Government could not alter the estimates wilfully.

8. Mr CHAN Chi-chuen noted that it would be difficult for the Government to include non-price elements in the tender assessment criteria under the DBG approach, and the Government had also cited the absence of tenderers in the tendering exercises conducted by the Leisure and Cultural Services Department ("LCSD") for dining outlets in individual recreational and sports facilities. He requested the Administration to give specific examples of such cases.

9. In response, PSHA said that it was not appropriate for the Government to disclose specific examples. She pointed out that in some previous tenders, LCSD had tried to lower the weighting of the price factor in order to avoid awarding the contract to the tenderer with the lowest bid. However, given the Government's internal procedural requirements, LCSD had to make great efforts to state its case for making such a change.

10. Referring to Appendix I to the Annex to LC Paper No. FC192/16-17(02), Mr Nathan LAW noted that according to the Government's estimates, the average rents of retail and dining facilities per leasable square metre per month under the DBO and DBG approaches were \$840 and \$360 respectively. He enquired about the justifications for making such estimates.

11. PSHA responded that when estimating the average rent of retail and dining facilities per leasable square metre per month under the DBO approach, the Government had made reference to the market rental of private shopping malls in Kowloon City and Wong Tai Sin. She also said that under the DBG approach, as retail and dining facilities in KTSP would first be designed and constructed by the Contracted Party before they were leased out by the Government under established procedures, they might not fully meet the operational requirements of the retail and dining industries. As such, the monthly rental was expected to be lower. D(IA)/KPMG added that under the DBO approach, given the Contracted Party's experience and expertise, its strategies could be adjusted flexibly taking into account market conditions to enhance the attractiveness of the commercial facilities. Whereas under the DBG approach, it would be very difficult for the layout and design of KTSP's commercial facilities to be optimized to achieve maximum commercial gains. Hence, the monthly rental would naturally be lower.

12. Dr CHENG Chung-tai took the view that the emphasis of the DBO approach was market competition. He enquired about the reasons for not introducing competition in respect of KTSP's operation. SHA responded that DBO approach was in itself a market-oriented operation.

Project cost

13. Dr LAU Siu-lai considered that the Administration should impose a ceiling on the project cost. She also asked whether FCR(2017-18)14 had elaborated on whether the Contracted Party would shoulder the additional capital cost in case of cost overruns. Ms Claudia MO was concerned that KTSP might become another white elephant project. Mr Nathan LAW asked how the Administration could effectively control the construction costs of KTSP.

14. Mr WU Chi-wai asked whether ground investigation works had been conducted by the Administration to ensure that no cost overruns would be caused by unfavourable ground conditions. Ms Claudia MO expressed similar concerns.

15. In response, PSHA stated that:

- (a) the amount of funding provision sought was sufficient to meet the project cost. In the event of a capital cost overrun, the Government would only apply for supplementary provision if the contractor was not held responsible for the additional costs thus incurred, such as late handover of construction sites by the Government to the contractor;
- (b) the Government had completed ground investigation works for the project, and the construction of KTSP involved neither large-scale underground structures nor archeological sites; and
- (c) in the tendering exercise, tenderers would be required to set out in their bids details of the cost for design and construction. The Government would vet the relevant information carefully. Moreover, the operating income of KTSP would be verified by independent auditors and accountants, and the Government would share such income according to the relevant audit reports.

Environmental problems

16. Dr LAU Siu-lai was concerned about possible air pollution that would be caused by the Central Kowloon Route ("CKR") construction project to be undertaken in the vicinity of KTSP (such as causing an increase in nitrogen dioxide concentration and respirable suspended particulates to levels beyond permissible limits). She asked about the measures to be taken by the Administration to handle the problem, such that the health of KTSP users would not be adversely affected.

17. PSHA responded that the Environmental Impact Assessment Report ("EIA Report") for the KTSP project had already been approved by the Environmental Protection Department. C for S added that the EIA Report covered the impact caused by the CKR project. At Dr LAU Siu-lai's request, the Government would provide members with the full text of the EIA Report on KTSP, as well as information on the impact of CKR on KTSP users in terms of air quality.

[Post-meeting note: The Chinese and English versions of the supplementary information provided by the Administration were issued to members vide LC Paper Nos. FC238/16-17(01) and FC253/16-17 on 19 July 2017 and 14 August 2017 respectively.]

Bid incentive

18. Referring to the table on tender cost estimate prepared by the Operations Consultant using man-day rates as set out in Appendix II to the Annex of LC Paper No. FC193/16-17(01), Mr Jeremy TAM queried why the cost per day for a number of consultants was significantly higher than the market rate. He also enquired about the mechanism to be put in place to ensure that the tenderers would truthfully claim its consultancy expenses. Mr CHAN Chi-chuen asked whether the Government would disclose the financial information of unsuccessful tenderers who were granted the bid incentive, so as to prevent the abusive use of the bid incentive arrangement. Ms Claudia MO queried the need for providing the bid incentive.

19. With respect to avoiding the abusive use of the bid incentive arrangement, PSHA said that information contained in the tenders would be kept confidential, and the Government would not disclose any financial information of the tenderers. She pointed out that having benchmarked the costs required for conducting pre-construction consultancy studies, the Government estimated that the bid cost for the project would be in the region of \$100 million to \$200 million. PSHA further said that the

tenderers must clearly state in their bids the amount of bid incentive to be claimed. Before granting the bid incentive, the Government would ask the unsuccessful tenderers to engage independent auditors and accountants to verify the expenses incurred in tender preparation and to submit the relevant invoices. Regarding issues concerning the table on tender cost estimate, the Principal and Branch Manager, Advisian explained that the consultants concerned must be highly experienced and they would be required to complete numerous complicated tasks within a short span of time (i.e. the tender period of six months). Hence, the cost per day would be higher.

20. Mr WU Chi-wai opined that the KTSP project could be split into two parts, namely, capital works and operations. He asked whether it was possible for the bid incentive to cover only the bid cost relating to the part on operations. Mr WU also asked how the merits in the tenderers' bids could be used by the Contracted Party.

21. SHA responded that capital works and operations could hardly be separated under the DBO procurement approach. He also pointed out that one of the objectives of the bid incentive was that the Government could tap into the merits in the unsuccessful bids. The Government would consolidate the merits of various bids for reference and use by the Contracted Party.

22. Responding to the question raised by Mr Nathan LAW, PSHA and C for S confirmed that the amount of contingencies already included the provision for bid incentive. To enhance transparency, Mr LAW said that the Government should list out special expenditure items (e.g., the provision for bid incentive in the present case) separately in future capital works projects. SHA noted Mr LAW's views.

23. Mr Jeremy TAM noted that given the need to set aside the provision for bid incentive, the amount of contingency provision would be reduced, and the Government would carefully control costs to cater for the reduced provision for contingencies. He thus enquired about the need for the Administration to set aside a hefty contingency provision if further savings could be achieved by controlling project costs carefully.

24. SHA replied that provision for contingencies would generally be made in capital works projects to cater for additional costs incurred by unforeseen circumstances. The Government had set aside the provision for bid incentive under the provision for contingencies to avoid increasing the project costs.

Tendering arrangement

25. Mr LEUNG Yiu-chung said that a special tendering arrangement was adopted for KTSP, and the successful tenderer might be able to make huge profits from the project. He asked whether the Administration would disclose the tender marking scheme to ensure that the tendering exercise was not tailor-made for a particular tenderer.

26. PSHA responded that according to the established practice, a tender assessment panel would be formed by the relevant government department (i.e. the Home Affairs Bureau ("HAB") in the present case), and the tender result would be decided by the Central Tender Board under the steer of the Financial Services and the Treasury Bureau. She also said that it was necessary to keep the tendering process confidential, and the Government had already provided the Legislative Council ("LegCo") with information on the major tender requirements. Emphasizing the fairness of the process, PSHA said that the tendering exercise would not be tailor-made for any particular tenderer.

27. Mr WU Chi-wai was concerned that under the DBO approach, there might be conflicts between the Contracted Party's own interests and the interests of the public. Notwithstanding the Administration's statement that such conflicts would be handled by a committee formed by stakeholders, he considered that the Administration should require the tenderers to specify the arrangements for handling conflicts of interests in their bids to ensure that such matters would be given due regard by the tenderers.

28. SHA concurred with the need to safeguard public interests carefully. He pointed out that when inviting tenders for the project, the Government would stipulate that the bids submitted by tenderers must comply with specific indicators relating to the handling of conflicts of interests, as set by the Government in the tender documents. Separately, the performance of the Contracted Party during the operation stage would be subject to public monitoring.

Operation of KTSP

29. Dr Pierre CHAN noted that the level of fees for public facilities in KTSP would be comparable to that charged by LCSD. He was concerned that unlike LCSD which received public subsidies, the Contracted Party would not have the incentive to provide affordably priced facilities at KTSP. Dr CHAN also asked the Government how it could ensure that the

Contracted Party would host at least 10 football matches per year in the Main Stadium, and whether the Contracted Party would increase the fees of KTSP facilities if the income from the Main Stadium was unsatisfactory.

30. PSHA replied that under the contract of KTSP, the hiring charges for community sports facilities in KTSP were required to obtain prior approval from HAB, and the level of charges would be comparable to those for similar facilities operated by LCSD. She explained that the Contracted Party would be able to subsidize the operating costs of such facilities with the revenue generated from the Main Stadium, as well as KTSP's commercial, dining and retail facilities. Regarding the usage of the Main Stadium, C for S said that the contract of KTSP would explicitly require the Contracted Party to host at least 10 local or international football matches in the Main Stadium per year, so as to encourage the hosting of more sports events by the Contracted Party. It was expected that the Contracted Party would sign a relevant agreement with the Hong Kong Football Association in due course.

31. Noting the requirement for KTSP's Indoor Sports Centre to allocate no less than two-thirds of its operation time per year to sports events, activities or community hiring, Dr Pierre CHAN asked whether a mechanism would be put in place to ensure the Contracted Party's compliance with such requirement.

32. In reply, PSHA pointed out that HAB and the Contracted Party would form a Joint Review Committee to regularly review the booking situation in KTSP, so as to ensure the Contracted Party's compliance with relevant requirements. She also briefly explained the monitoring regime on KTSP's operation.

33. Mr Alvin YEUNG enquired about the key performance indicators ("KPIs") formulated by the Administration in respect of the Contracted Party's operation of KTSP, as well as the measures to be taken by the Government to ensure that the Contracted Party would meet such KPIs and properly maintain the facilities at KTSP.

34. SHA replied that given the 20-year-long operation period of KTSP and its profit-making nature, the Contracted Party would be incentivized to properly maintain the facilities. He also said that the Government would regularly review the Contracted Party's performance against the relevant KPIs. He also undertook to provide details of such KPIs after the meeting.

[*Post-meeting note:* The Chinese and English versions of the supplementary information provided by the Administration were issued to members vide LC Paper Nos. FC238/16-17(01) and FC253/16-17 on 19 July 2017 and 14 August 2017 respectively.]

Coordination between KTSP and other sports facilities

35. Mr HUI Chi-fung enquired about the coordination between KTSP and the development of Wan Chai Sports Ground ("WCSG"). He was concerned that the provision of the relevant sports facilities at KTSP was cited as one of the justifications for the demolition of WCSG. Mr CHU Hoi-dick said that the Hong Kong Trade Development Council was now conducting a feasibility study on the future development of WCSG. He asked whether consideration would be given by the Government to conducting public consultation at this stage.

36. SHA responded that the Government would promote sports development in Hong Kong in a holistic manner. He also pointed out that as clearly stated in the 2017 Policy Address, the Government would earmark \$20 billion on improving and developing a number of sports facilities, in order to promote sports in the community and maintain Hong Kong as a centre for major international sports events. Furthermore, plans were being made by the Government for the provision of more sports facilities in the next five years (such as the sports park in Pak Shek). He also stated that the study on WCSG's future development was still underway, and the Government would act in accordance with established procedures.

Construction of Kai Tak Sports Park and its ancillary facilities

37. Mr CHAN Chi-chuen asked whether the three major venues in KTSP (i.e. the Main Stadium, the Public Sports Ground and the Indoor Sports Centre) would be commissioned simultaneously. He also sought details about the development of ancillary facilities (such as transport facilities) for KTSP.

38. C for S responded that the Government's plan was to commission the three major venues in KTSP simultaneously. He also stated that in terms of ancillary transport services, KTSP would mainly be served by the Station Square where Kai Tak Station of Sha Tin to Central Link was located. The Government was now studying the project for constructing the Station Square and would submit the relevant funding proposal to LegCo as soon as possible.

39. Dr CHENG Chung-tai noted the Administration's stance that as the three major venues in KTSP were complementary to each other, it would be difficult to build them separately. He queried whether the Government's rationale was fully justified.

40. PSHA responded that KTSP was developed under the concept of a single sports park with strong connectivity among the three major venues. If the three major venues were to be built separately, it might be difficult for them to share the use of some facilities, thus resulting in less effective use of resources.

Other views

41. Citing the example of the International BMX Park ("BMX Park") in Kwai Chung, Mr Alvin YEUNG said that the venue was dilapidated as its operation had been outsourced. He thus queried whether it was appropriate for the Administration to outsource the operation of its sports facilities. Mr CHU Hoi-dick urged the Administration to address the problems faced by BMX Park.

42. C for S clarified that the Government had not outsourced the operation of BMX Park. Instead, the restored landfill site was leased to the Hong Kong Cycling Association ("CAHK") for the purpose of training and promoting the sports of bicycle motocross. The venue was operated and managed by CAHK. There were also previous cases where land sites had been granted to national sports associations for the purpose of sports development. SHA advised that the Government would hold discussions with CAHK on the problems faced by BMX Park.

Meeting arrangement

43. At 6:30 pm, the Chairman announced his ruling that of the seven motions proposed to be moved by Mr CHU Hoi-dick on FCR(2017-18)14 under paragraph 21 of the Finance Committee Procedure ("FCP"), six were out of order, and the remaining motion (i.e. the Seventh Motion) was in order. In other words, Mr CHU could move the said motion under FCP 21. The Chairman also briefed members on the meeting arrangement for the meeting to be held on 23 June 2017 as follows: after members finished asking questions, FC would vote on whether motions proposed to be moved by members under FCP 37A would be proceeded with forthwith, followed by Mr CHU moving the above motion under FCP 21. FC would then debate and vote on Mr CHU's motion, followed by voting on item FCR(2017-18)14.

[*Post-meeting note:* The Chairman's written ruling on the motions proposed to be moved by Mr CHU Hoi-dick under FCP 21 was issued to members vide LC Paper No. FC185/16-17(01) on 22 June 2017.]

44. The meeting ended at 6:32 pm.

Legislative Council Secretariat
28 March 2018