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Immigration Department
The Government of the Hong Kong
Special Administrative Region

By fax (2543 9197) & by Email

2 January 2020


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

Dear Mr CHU,

Public Accounts Committee
Consideration of Chapter 8 of the Director of Audit's Report No. 73
Procurement of goods and services by the Immigration Department

Thank you for your letter dated 17 December 2019 to the Director of Immigration regarding the captioned chapter. Our response to Questions 1 to 10 is attached at Annex for consideration please.

Yours sincerely,


(TANG Ho-kong)
for Director of Immigration

Encl.

c.c. Secretary for Security (fax no. 2877 0636)
Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Director of Audit (fax no. 2583 9063)

Chapter 8 of the Director of Audit's Report No. 73

Procurement of goods and services by the Immigration Department

Response to the questions asked

Part 2: Procurement of information and communications technology systems

Q1. According to paragraphs 2.8 and 2.9, of the 13 information and communications technology ("ICT") projects included in the four annual reports on implementation of major ICT projects of May and December 2010, March 2016 and October 2018 submitted to the Finance Committee ("FC") of the Legislative Council ("LegCo") by the Office of the Government Chief Information Officer, 8 were reported as having been completed for about 1 to 10 years, averaging 7.8 years. However, according to paragraph 2.10, a total of \$209.1 million was charged to seven of the eight completed projects (ranging from \$1.8 million to \$69.9 million) after the project completion dates. Why did the Immigration Department ("ImmD") continue to carry out additional work under the seven projects after reporting project closures to FC? Does Director of Immigration agree that, instead of reporting project closures, ImmD should have continued to report project activities to FC until closure of the project subheads?

A1. After completion of all the items and functions under the main contract of the 13 ICT projects mentioned in paragraphs 2.8 and 2.9 of the Audit Commission's Report, Immigration Department ("ImmD") had reported to the Office of the Government Chief Information Officer ("OGCIO") the completion of the projects concerned. OGCIO had then reported the closure of the projects to the FC. However, subsequent to the report of the project closure, improvement works to the system components/functions were necessary for enhancement of service to the public. As the improvement works fell within the project scope, they were charged to the respective project vote.

ImmD agreed to Audit's recommendation that instead of reporting project closure for those projects, we should have continued to report project activities to FC until all improvement works were completed. In the light of Audit's recommendation, ImmD has already revised the relevant guidelines. With immediate effect, the Immigration Department Information Systems Co-ordination Committee ("IDISCC"), which is led by an Assistant Director to steer and monitor the development and implementation of ICT projects in the Department, will monitor the progress of projects and closely review the spending position of projects to ensure that the project activities and project subhead closure will be timely reported to the FC as appropriate and no spending will be incurred after reporting project subhead closure.

- Q2. According to paragraph 2.14, up to June 2019, while no expenditure had been incurred for seven completed projects for one to nine years with a total unspent balance of \$581.7 million, ImmD had not informed the Financial Services and the Treasury Bureau (“FSTB”) of the surplus funds, at variance with the requirements of the Financial and Accounting Regulation 320 which states that where Controlling Officers have reason to believe that funds surplus to requirements exist under a subhead, they shall immediately inform the Secretary for Financial Services and the Treasury so that the surplus may be reserved. According to FSTB, for capital non-works projects (i.e. administrative computer systems funded under Capital Works Reserve Fund (“CWRF”) Head 710 and non-administrative computer systems and communication equipment funded under CWRF Head 708) approved by LegCo in the 2019-2020 legislative session and thereafter, it would provide LegCo with quarterly reports on significant deviations between the accepted tender prices of the projects and the estimated provisions in the approved project estimates when the deviations equal or exceed \$15 million or 10% of the original estimated provision, whichever was greater, and the excess would be reserved administratively. What measures will ImmD take to ensure compliance with this new requirement for projects approved in October 2019 and thereafter?
- A2. To comply with FSTB’s new requirement, IDISCC has been tasked to review the tender progress of all ICT projects to be approved by LegCo in the 2019-2020 legislative session and thereafter. In case any significant deviation between the accepted tender prices of the projects and the estimated provisions in the approved project estimates that exceeds the threshold specified by FSTB is found, ImmD will timely report the deviation to FSTB accordingly for the latter to reserve the excess administratively.
- Q3. According to paragraph 2.16, ImmD withdrew a new funding bid of \$68.58 million in September 2010 after receiving FSTB’s request for justification for the proposed new funding bid, as various computerization projects had already been undertaken by ImmD and there was a difference between the estimated project balances and estimated cash flow requirements in the forthcoming years of existing major project votes. In the event, ImmD decided to make use of the existing project votes under the updated Information Systems Strategy to fund the one-off cost of the computer equipment items for the new control point at Kai Tak Cruise Terminal. Has ImmD sought the advice of FSTB on the propriety of charging the new computer systems to existing ICT projects with surplus funds? If yes, what was FSTB’s advice? If not, why?
- A3. In respect of the funding for the computer equipment for the new control point at Kai

Tak Cruise Terminal, ImmD informed FSTB in September 2010 that ImmD would utilise the existing major project votes and Departmental Expenses, wherever appropriate and as far as possible, to fund the computer equipment items for the New Cruise Terminal. As mentioned at paragraph 2.16 of the Audit Commission's Report, the expenditures incurred in the extension work was within the ambit of the pertinent project votes. In view of Audit's recommendations, ImmD will -

- (a) clearly define in the funding application to FC the scope of ICT projects including the number and locations of control points to be covered;
- (b) state clearly in the funding paper if any surplus funds will be used for implementing new ICT systems at new control points; and
- (c) ensure that expenditure is only incurred within the limits and scope authorised, and consult the FSTB when in doubt.

Q4. According to paragraph 2.18, from 2014-2015 to 2018-2019, in 14 of 16 contracts awarded by tender exercises, the contract prices were lower than the corresponding pre-tender estimates ("PTEs"). In particular, five tenders recorded significant variances between PTEs (comprising mainly a one-off capital cost and/or maintenance cost) and the contract prices, ranging from 31% to 60%. What measures will ImmD take to work out more realistic PTEs in future tender exercises of ICT projects?

A4. With immediate effect, pre-tender market research will be required for every tender in ImmD (see A8 and A9 below). For every ICT project, a pre-tender market research will be conducted upon conclusion of the feasibility study to better understand the market conditions and estimate the tender price. Apart from the information obtained from the pre-tender market research, other relevant factors (such as the recent market and technology trend, projected wages and inflation rate, etc.) will be taken into account in working out a PTE for the project. Moreover, as there may be a time gap between pre-tender market research upon completion of the feasibility study and completion of tender document, ImmD will conduct another market research before the issue of tender invitation with a view to updating and working out a more accurate PTE.

Q5. According to paragraph 2.30, there was a two-year delay in the implementation of the Application and Investigation Easy System and Electronic Records Programme. The delay not only led to the slippage by two years in achieving the intended benefits of savings in staff costs, but also resulted in incurring additional expenditures of \$0.76 million to clear the backlog of file conversion. However, ImmD did not recommend the conduct of a Post Implementation Review to look into the causes of deviation and identify necessary improvement measures. What are the reasons for the decision?

What measures will ImmD take to ensure that due consideration is given to significant delays and non-achievement of savings as stated in FC papers in future?

- A5. Upon completion of the Application and Investigation Easy System and Electronic Records Programme project, ImmD had in fact conducted a comprehensive review under the Post Implementation Departmental Return (PIDR) mechanism on the overall project implementation. The review identified, among other things, the cause of delay and failure to fully deliver the intended savings in staff costs with a view to avoiding recurrence of similar delay in subsequent ICT projects. Given that the implementation of all sub-systems was completed within budget and the various planned functions as stated in the funding approval were duly delivered, ImmD did not see the need to conduct a Post Implementation Review (PIR) in addition to the PIDR already conducted.

In the light of Audit's recommendation and in order to enhance the management of ICT projects, IDISCC will, apart from closely monitoring the project progress as at present, review every PIDR and make recommendation with regard to the need of conducting PIR in future should there be any substantial delay or non-achievement of intended savings in costs/benefits.

- Q6. According to paragraphs 2.35 and 2.38, the tender for the supply and installation of Automated Passenger Clearance System ("APCS") for the two new control points was cancelled in July 2006 because the revised total price of the most advantageous tenderer's offer after tender negotiations was still higher than PTE and also the reference price of supplying the service obtained from the contractor of an existing contract for implementing APCS at other immigration control points. According to paragraph 2.41, given the financial and time constraints and the alternative of requiring the existing contractor to supply the service under the existing contract, a better option for this case could be setting a price ceiling equal to the existing contractor's reference price as a reserve price for internal reference at the outset (i.e. the tender exercise would be cancelled if the price of the most advantageous tender was higher than the reserve price). While noting that setting a price ceiling is not a norm, such arrangement would help ImmD identify the best value-for-money offer. According to paragraph 2.45, Director of Immigration has agreed to consider setting a price ceiling equal to the contractor's reference price as a reserve price for internal reference in similar future tender exercises. What action has ImmD taken in this regard?

- A6. ImmD has already issued the following guidelines for tender exercise of ICT project involving existing contractor providing similar service of the tender-

- (a) a price ceiling equal to the existing contractor's reference price will be set as a reserve price for the tender concerned for internal reference at the outset;
- (b) if the price of the most advantageous tender is higher than the reserve price, ImmD will -
 - (i) if time allows, conduct tender negotiation for a price equal to or lower than the reserve price; or
 - (ii) if time is constrained for tender negotiation, consider, in consultation with DoJ, cancelling the tender in the public interest; and
- (c) subject to legal advice and the approval of the relevant tender board or the Departmental Tender Committee on (b)(ii) above, ImmD will proceed with cancellation of the tender and arrange contract variation with the existing contractor at the reserve price, as appropriate.

The IDISCC will closely monitor the tendering of ICT projects on a monthly basis and ensure compliance of the above guidelines in future.

Q7. According to paragraph 2.42, non-essential requirements were included as mandatory requirements in the first tender issued in November 2005 for Automated Vehicle Clearance System ("AVCS") at Shenzhen Bay Control Point (which was cancelled as only one non-conforming offer was received) but were re-classified as optional tender requirements in the second tender issued in September 2006 (with three conforming offers received). What are the reasons for including stringent requirements in the tender documents of the System as according to Stores and Procurement Regulation ("SPR") 109(c), over-specification and over-prescription in product requirements or mode of service delivery should be avoided? What measures will ImmD take to avoid imposing stringent requirements in the tender document which may deter suppliers from submitting their bids in future?

A7. Before including the requirements concerned into the tender document, ImmD had conducted a feasibility study which confirmed that the requirements were technically feasible in the market. However, during the first tender exercise, no tender was received. In the light of the first tender exercise, we had reviewed the requirements and included them as optional requirements in the second tender exercise to avoid deterring potential suppliers from submitting bids.

To avoid over-specifications/over-prescriptions in future tender exercise for ICT projects, ImmD will, on top of conducting a feasibility study, step up its market research to better understand the technical capability of the potential suppliers and to avoid imposing overly stringent requirements which may deter potential suppliers

from submitting bids. Apart from conducting a market research upon the completion of feasibility study, ImmD will conduct another market research shortly before the issue of tender invitation to keep in view the latest market and technology trend and avoid over-specification/over-prescription in the tender.

Part 3: Procurement of other goods and services

- Q8. According to paragraph 3.8, there was a significant over-estimation of PTE in a 36-month transport service for the Castle Peak Bay Immigration Centre awarded in August 2017. According to paragraph 3.9, in approving the award of contract, the Departmental Tender Committee commented that the mark up of PTE by 15% per year with an additional 7.5% for contingency was not well justified. How will ImmD improve the accuracy of PTE in future?
- A8. With a view to improving the procurement process, pre-tender market research will be required for every tender in ImmD with immediate effect to better understand the market conditions, the number of potential tenderers, and to more accurately estimate the price of tender, etc. Apart from the information obtained from pre-tender market research, ImmD will also take into account other relevant factors (such as the recent market trend, the supply and demand of the goods or services to be purchased, the projected wages and inflation rate, economy of scale, etc.). Relevant details have been incorporated into the departmental procurement guidelines to be issued shortly (see A9 below).
- Q9. According to paragraph 3.25, of the 33 tender exercises examined by the Audit Commission (“Audit”), ImmD had not approached potential tenderers for conducting market research work in 26 (79%) tender exercises, at variance with the requirements of SPR 350(e) and Financial Circular No. 2/2019 of March 2019 which state that departments are encouraged to reach out to the market and conduct a market research to better understand the goods or services likely to be available in the market, technological trends, number of potential bidders, etc. According to paragraph 3.27, Director of Immigration has agreed the audit recommendation in paragraph 3.26(c) to review and update the procurement guidelines to incorporate the new requirements on the new pro-innovation government procurement policy as laid down in Financial Circular No. 2/2019 of March 2019. Has ImmD reviewed and updated the guidelines?
- A9. ImmD has completed reviewing the departmental procurement guidelines. The need to conduct a market research for each tender, the factors to be considered for working

out more accurate PTEs (see A8 above) and the requirements on the new pro-innovation government procurement policy as laid down in Financial Circular No. 2/2019 as well as other updates in SPRs have been duly incorporated into the guidelines as appropriate. The revised guidelines have been submitted to the Government Logistics Department (GLD) for clearance. Subject to GLD's clearance, the revised guidelines will be issued as soon as possible. In the meantime, Financial Circular No. 2/2019 as well as Chapter 8 of the Director of Audit's Report No. 73 have been circulated to all divisions and sub-divisions for compliance. Their attention has been drawn particularly to the areas for improvements in procurement of goods and services and the Audit recommendations therein.

Q10. According to paragraph 3.29, of the 122 (61%) of 200 purchases by quotation examined by Audit, in 77 (38.5%) purchases, although bid invitations had been sent to 5 to 36 suppliers, only one bid was received, and in 45 (22.5%) purchases, although bid invitations had been sent to 5 to 41 suppliers, only two bids were received. What measures will ImmD take to improve the competition of purchases by quotation in future?

A10. To improve the competition of purchases by quotation in future, ImmD will take the following measures-

- (a) for quotations with consecutive limited response from the market, to conduct market research to ascertain the number of potential bidders who could meet all the essential requirements and would be interested in participating in the procurement exercises with a view to ensuring sufficient competition;
- (b) to invite more suppliers/service providers, if available, in each quotation exercise;
- (c) to avoid over-specifications/imposing stringent requirements;
- (d) to consider bundling the procurement of same or similar service/item to form a longer contract period to enhance attractiveness and achieve better economy of scale; and
- (e) where appropriate, to provide reference materials (in formats such as photo, drawing, or sample etc.) in the bid invitation to facilitate better understanding of the quotation requirements by potential bidders.