

**Note for Members of the
Legislative Council Panel on Financial Affairs**

At the PWSC meeting held on 12 May 1999 to discuss the Cyberport funding application, the Administration undertook to draw up and make known policy guidelines for future projects similar to the Cyberport, including those initiated by private companies. These guidelines would mainly be principles rather than detailed procedures as the circumstances of each project would be different.

Attached for Members' information please find a paper on the ground rules (policy guidelines) to be adopted by the Administration for special consideration of future initiatives proposed by the private sector. Should Members wish, we will be pleased to attend before a panel meeting to answer any further questions that Members may have on this subject.

**Finance Bureau
October 1999**

Legislative Council Panel on Financial Affairs

Ground Rules for Special Consideration of Private Sector Initiatives

At the Public Works Subcommittee meeting held on 12 May 1999, some Members expressed concern at the process through which the Administration had arrived at the decision to grant the development right of the Cyberport project to a single private company. The Administration was urged to make clear whether the Cyberport project would set a precedent for future cases.

2. In view of the concerns expressed by Members on that occasion, the Administration undertook to draw up and make known policy guidelines for future initiatives proposed by the private sector.

3. These guidelines are essentially broad principles, as opposed to detailed procedures to follow, as the circumstances of each private sector initiative will be different. The guidelines, attached, are being promulgated within the Administration for reference purposes.

Ground Rules for Special Consideration of Private Sector Initiatives

As a general rule, bureaux and departments will continue to consider and process proposed projects initiated by the private sector in accordance with approved government policies and procedures. They will continue to follow an open, fair and competitive bidding process for the disposal of land and the procurement of goods and services. Any departure from the norm must be fully justified on a case-by-case basis, having regard to the merits of the specific proposal.

2. As it is not possible to anticipate all the probable circumstances that may justify a departure from the norm, some ground rules - not intended to be exhaustive - are set out below to assist bureaux and departments in the examination of individual proposals as and when they arise :

- (a) the extent to which the proposed initiative complies with approved government policies and/or assists to meet pre-determined policy objectives;
- (b) the assessed economic and other benefits of the proposed initiative;
- (c) the strategic importance or otherwise of the proposed initiative (e.g. how "foot-loose" is the proposed project, can it be located elsewhere instead of Hong Kong, is it sought after by other economies, etc.) and the proponent's stance to an open and competitive bidding exercise;
- (d) the "proprietary" nature, if any, of the proposed initiative, including originality of concept, ownership of intellectual property rights, and other exclusivity considerations;

- (e) the time-sensitiveness of the proposed initiative, e.g. would the assessed economic and other benefits be substantially varied as a result of the time required to undertake an open and competitive bidding exercise;
- (f) the proponent's ability to bring the proposed initiative to fruition, e.g. is it the only entity in the market with the capacity and expertise to deliver the proposed initiative within a specific timeframe (particularly if the proposal is time-sensitive); and
- (g) the level of interest in the local and overseas markets, e.g. the number of players with the requisite expertise and capacity to implement the proposed initiative.

3. Subject to the particulars of individual cases and having regard to the above ground rules, bureaux and departments may make a recommendation to the relevant decision-making body to :

- (a) enter into exclusive negotiations with the proponent;
or
- (b) seek expressions of interest on the proposed initiative to determine whether to mount an open or restricted bidding exercise, or to embark upon exclusive negotiations with the original project proponent; or
- (c) follow the normal open and competitive bidding process.