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Civil Engineering and
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14 May 2018

(Urgent by fax 2543 9197)

Mr Anthony CHU
Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road,
Central, Hong Kong

Dear Sir,

Public Accounts Committee
Consideration of Chapter 8 of the Director of Audit's Report No. 70
Sha Tin Section of Route 8

Thank you for your letter of 3 May 2018 enquiring information on Contract C of the subject Audit Report. I attach our reply in English and Chinese for your reference please.

A handwritten signature in black ink, appearing to read 'Terence T M LAM', is written over a faint horizontal line.

(Terence T M LAM)

for Director of Civil Engineering and Development

- cc Secretary of Development (fax no. 2147 3691)
Secretary for Transport and Housing (fax no. 2537 6519)
Director of Highways (fax no. 2714 5203)
Commissioner for Transport (fax no. 2802 2361)
Director of Architectural Services (fax no. 2810 7341)
Director of Electrical and Mechanical Services (fax no. 2882 9042)
Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Director of Audit (fax no. 2583 9063)

Guidelines, documents and handbook on the procedure of drafting and vetting a works contract with scale similar to Contract C

The current procedures and guidelines for preparation of contract documents are mainly laid down in the following documents:

- Project Administration Handbook for Civil Engineering Works (PAH) – Chapters 5 and 6, which can be read or downloaded in the website of Civil Engineering and Development Department (CEDD): http://www.cedd.gov.hk/eng/publications/standards_handbooks_cost/stan_pah.html; and
- CEDD Integrated Management System Operation Procedure OP-05: Tendering Process (an expansion of procedures mainly under the framework of Chapters 5 and 6 of PAH) (see Annex A).

The professional officers handling the project may seek advice from the Contract Adviser of the department on the drafting of tender documents. All tender documents for contracts estimated to exceed \$300 million in value must be submitted through the Contract Adviser to the Legal Advisory Division (Works) of DEVB (LAD(Works)/DEVB) for legal vetting prior to calling for tenders.

The tender documents require approvals from the appropriate rank of directorate officers which are stipulated in the PAH:

Tender Document	Reference
Special Conditions of Tender	PAH Chapter 5 Para. 2.2
Special Conditions of Contract	PAH Chapter 5 Para. 5.2.3 & Para. 9.40
Particular Specification	PAH Chapter 5 Para. 6.1
Particular Preambles to Bills of Quantities	PAH Chapter 5 Para. 7.3
Whole tender documents	PAH Chapter 6 Para. 1

Procedure and workflow on drafting and vetting Contract C, including the number, rank and qualifications of Civil Engineering and Development staff involved

The then New Territories East Development Office of the Territory Development Department (TDD) was responsible for the tendering and management of Contract C. In July 2004, CEDD was formed upon the merging of the then Civil Engineering Department and the then TDD¹. Thereafter, CEDD took over the management of Contract C. The design, tender preparation and construction supervision of Contract C were conducted by consultants under a consultancy agreement. The general procedure and workflow in relation to the drafting and vetting of the contract documents in accordance with the prevailing guidelines and requirements stipulated in PAH at that time were, as follows:

Consultants

The Consultants prepared the draft tender documents including specifications, bill of quantities, drawings and other documents as necessary to enable CEDD to invite tenders, in accordance with the duties defined under the consultancy agreement. These duties included consultation with all authorities and bodies or persons affected by the Project. The Consultants then submitted the draft documents to CEDD for approval.

CEDD

The project team vetted the draft documents to ensure they were properly prepared following the guidelines laid down in PAH.

After the project team was generally satisfied with the draft documents, they sought specific advice from the Contract Advisory Unit of CEDD Headquarters (HQ) on doubtful areas that were spotted on the tender documents. The project team also submitted the draft documents to LAD(Works)/DEVB for legal vetting via the Contract Advisory Unit. After that, the project team sought approval from the directorate officers on the tender documents in accordance with the guidelines of PAH Chapter 5.


Prior to tendering, the project team checked against the tender procedure checklist provided in PAH Chapter 6 that all the actions were completed, and

¹ For simplicity, the then Territory Development Department is referred to as CEDD in this summary.

requested the approval for tender invitation by completing a “Calling for Tender – Routing Sheet” in accordance with the tender procedure outlined in PAH Chapter 6.

CEDD Staff Involved

The project team of CEDD, comprising a Senior Engineer and two Engineers led by a Chief Engineer, was responsible for the vetting the contract documents. The project team was under the supervision of the Deputy Project Manager and the Project Manager with support from CEDD HQ. The CEDD staff involved were all qualified professional civil engineers.


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Reviewed by: Signed Post: SE/P2, FMD Date: 17 Mar 2018
 (Name & Signature) HO Hei-yin, Bill

Approved by: Signed Post: CE/FM Date: 17 Mar 2018
 (Name & Signature) MOK Pang-ching,
 Peter

Rev No.	Page Affected	Revision Details	Effective Date
0	All	First issue to tally with the implementation of the new IMS in CEDD	1 Sept 2006
1	2, 3	New reference included	1 Mar 2007
2	3,4,5,6,7	New reference included	3 Mar 2008
3	All	Annual review	1 April 2009
4	All	Annual review	1 April 2010
5	All	Annual review	1 April 2011
6	All	Annual review	1 April 2012
7	All	Annual review	1 April 2013
8	All	Annual review	1 April 2014
9	All	Annual review	1 April 2015
10	All	General revision with deletion and addition of reference documents. Work Instruction No. CEO-OP-05-WI-01 (Preparation of Tender Documents) deleted.	1 April 2016

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11	All	Annual review	1 April 2017
12	All	Annual review	1 April 2018

1. Scope


- 1.1 This procedure is applicable to the tendering process for capital works contracts and term contracts managed by CEDD.

2. Objectives


- 2.1 The objective of this procedure is to ensure that the tendering process is properly implemented.

3. Reference Documents


- 3.1 CEDD Technical Circular (CEDD TC) No. 05/2017: Simplified Tendering Arrangement for Works Contracts not Exceeding \$55 million
- 3.2 CEDD Accounting and Supplies Guideline (CEDD ASG) No. 5/2017
- 3.3 CEO Circular No. 2/2001: Allocation of Contract Numbers
- 3.4 CEO Circular No. 5/2001: Reporting of Unit Cost Information after Contract Award
- 3.5 DTD's memo ref. (124) in TDD 6/7/52 Pt2 dated 13.1.2000
- 3.6 Financial Circular (FC) No. 5/2016: Parallel Tendering for All Contracts
- 3.7 FC No. 3/2009: Simplified Tendering Arrangement for Capital Works
- 3.8 Environment, Transport and Works Bureau Technical Circular (Works) (ETWB TCW) Nos. 15/1999, 15/1999A and 15/1999B: Improvement to Quality of Maintenance Works
- 3.9 ETWB TCW No. 30/2002: Implementation of Site Safety Cycle and Provision of Welfare Facilities for Workers at Construction Sites
- 3.10 ETWB TCW No. 50/2002: Contractors' Joint Ventures
- 3.11 Development Bureau Technical Circular (Works) (DEVB TCW) No. 8/2014: Examination of Tenders and Submission of Tender Reports
- 3.12 DEVB TCW No. 4/2014: Tender Evaluation Methods for Works Contracts
- 3.13 DEVB TCW No. 2/2014: Tender Procedures for Procurement governed by the Agreement on Government Procurement of the World Trade Organization
- 3.14 DEVB TCW No. 5/2015: Prequalification of Tenderers for Public Works Contracts

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- 3.15 ETWB TCW No. 6/2005: Implementation of Systematic Risk Management in Public Works Projects
- 3.16 ETWB TCW No. 19/2005: Environmental Management on Construction Sites, ETWB's Interim Guidance Note dated 19.06.2006 on "Environmental Management on Construction Sites" & SDEV's memo dated 22.11.2013 on "Pay for Safety Performance Merit Scheme"
- 3.17 ETWB TCW No. 4/2006 : Delivery of Capital Works Projects
- 3.18 AD(T), CEDD's memo ref. () in CEDD T 7/4/7 dated 18.11.2005
- 3.19 DCED's memo ref. () in CEDD T4/5/1 dated 27.4.2005
- 3.20 Stores and Procurement Regulations (SPR)
- 3.21 Project Administration Handbook for Civil Engineering Works (PAH) Chapter 5: Contract Documents
- 3.22 PAH Chapter 6: Tender Procedure
- 3.23 FSTB's email dated 12.12.2008
- 3.24 SDEV's memo ref. () in ETWB(W) 545/83/02 dated 6.3.2009
- 3.25 TS/NTE's email dated 13.3.2009
- 3.26 AD(T)'s memo ref. CEDD T 4/5/3/1 dated 26.9.2011
- 3.27 TS/CEO's email dated 2.10.2009 and DEVB's email dated 12.3.2018
- 3.28 DCED's memo ref. CEDD T 4/33/3 Pt.III dated 18.12.2009
- 3.29 SFST's memo ref. 43 in TsyB MA 00/550/1 (C) Pt.2 dated 14.3.2016
- 3.30 TS/HQ's e-Memo ref. (81) in CEDD T 7/4/7 Pt. 33 dated 9.7.2010
- 3.31 FSTB's email dated 15.7.2010
- 3.32 SE/QM&S, HQ's e-Memo dated 13.8.2010
- 3.33 DEVB TCW No. 6/2010: Trip Ticket System for Disposal of Construction & Demolition Materials
- 3.34 SDEV's memos ref. (02FYE-01-11) in DEVB(W) 510/17/01 dated 27.7.2012, (02H25-01-1) in DEVB(W) 510/17/01 dated 8.11.2012 & (02UJT-01-1) in DEVB(W) 510/17/01 dated 28.9.2016
- 3.35 SFST's memo ref. (14) in TsyB T 00/575-1/6/0 dated 26.1.2011
- 3.36 SE/QM&S's e-Memo ref. () in CEDD T 4/36/2/08 dated 4.3.2011 and DoJ's memo ref. L/M (4) in ADV 5054/1C dated 12.2.1998
- 3.37 TS/HQ's email dated 9.11.2011
- 3.38 TS/HQ's email dated 9.1.2012

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- 3.39 TS/HQ's email dated 6.2.2012
- 3.40 ETWB TCW No. 11/2004: Cyber Manual for Greening
- 3.41 ETWB TCW No. 29/2004: Registration of Old and Valuable Trees, and Guidelines for their Preservation
- 3.42 DEVB TCW No. 7/2015: Tree Preservation
- 3.43 DEVB TCW No. 5/2012: Guidelines on the Classification of Works Contract and Service Contract for Procurement
- 3.44 CEDD TC No. 02/2013: Minor Works and Landscape Works Term Contracts
- 3.45 DEVB TCW No. 5/2013: Extension of Time due to Labour Shortage
- 3.46 CEDD TC No. 02/2014 dated 28.1.2014
- 3.47 SDEV's memos ref. () in DEVB(W) 510/10/01 dated 11.2.2014
- 3.48 DEVB TCW No. 7/2014: Guidance on Execution of Public Works Contracts as a Deed
- 3.49 DEVB TCW No. 3/2014: Contractors' Designs and Alternative Designs
- 3.50 SDEV's memo ref. () in DEVB(W) 920/30/01 dated 2.5.2014
- 3.51 SDEV's memo ref. () in DEVB(W) 546/70/03 dated 2.5.2014
- 3.52 DEVB's email dated 16.7.2014 & DEVB's memo ref. (02VKU-01-3) in DEVB(W) 510/17/01 dated 16.12.2016
- 3.53 SDEV's memo ref. () in DEVB(W) 546/84/01 dated 15.7.2015
- 3.54 SDEV's memo ref. () in DEVB(W) 546/84/01 dated 20.8.2014
- 3.55 TS/HQ's email dated 15.10.2014
- 3.56 SFST's memo ref. () in TSyB T 00/575-1/7/0 Pt. 6 dated 28.11.2014
- 3.57 DEVB TCW No. 1/2015: Emission Control of Non-road Mobile Machinery in Capital Works Contracts of Public Works
- 3.58 SDEV's memo ref. () in DEVB(W) 510/10/01 dated 7.7.2015
- 3.59 SDEV's memo ref. () in DEVB(W) 506/30/07 dated 17.2.2016 and 26.5.2017, DEVB TCW Nos. 5/2016, 1/2017 and 2/2017.
- 3.60 SDEV's memo ref. (o2URZ-01-5) in DEVB(PS) 108/34 dated 20.12.2016
- 3.61 SDEV's memo ref. () in DEVB(Trg) 133/3(10) dated 23.1.2017
- 3.62 SDEV's memo ref. (02VWV-01-1) in DEVB(W) 510/83/05 dated 24.1.2017
- 3.63 CHE/R&D, HyD's memo ref. (4M9G) in HyD RD/1-95/5 dated 2.2.2017

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Note: These reference documents will be updated as and when necessary by the relevant authority. Reference shall be made to the current or applicable version, as appropriate.

4. Definition

4.1 Nil

5. Responsibility

5.1 The Office/Branch/Division head is responsible for the implementation of this procedure.

6. Procedure

6.1 General

6.1.1 Tender documents shall be prepared in accordance with PAH Chapter 5. Tendering shall be carried out, wherever applicable, in accordance with PAH Chapter 6 and the SPR. Reference shall be made to DEVB TCW No. 5/2012 regarding the guidelines on the classification of works contract and service contract for procurement of public works.

6.1.2 Comprehensive lists of reference documents are given in the "References" sections of PAH Chapter 5 and Chapter 6. However, reference shall also be made to the "Information not yet incorporated in the OP" for OP-05 on the IMS Bulletin Board and the latest circulars together with related documents posted on the CEDD Bulletin Board.

6.1.3 For contracts managed by consultants, the procedure prescribed in the respective consultancy agreement, on matters that require consultation with or seeking comment/approval from the Employer, shall also be followed.

6.1.4 All officers involved in preparing tender documentation including tender specifications and assessing tenders must declare whether they have any actual, potential or perceived conflict of interest at the start of deliberation or as soon as they become aware of a potential conflict, in accordance with Chapter IA of the SPR and paragraph 6.4 of PAH Chapter 6.


6.1.5 For preparation of the tender assessment marking scheme for design and build (D&B) contracts, reference shall be made to DEVB TCW No. 4/2014 regarding the revisions to the specimen tender assessment marking scheme.

6.1.6 Reference shall be made to CEDD TC No. 02/2013 regarding minor works and landscape works term contract.

6.1.7 Reference shall be made to DEVB TCW No. 5/2013 regarding extension of time due to labour shortage.

6.1.8 Reference shall be made to Clause 3.52 of this OP regarding Reimbursement of Contractor's and Sub-contractors Contributions to the Mandatory Provident Fund.

6.1.9 Reference shall be made to DEVB TCW No. 1/2015 regarding the use of non-road mobile machinery in capital works contracts of public works.

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6.2 Tender Procedure Check-list

- 6.2.1 The tender procedure checklist in Paragraph 1 of PAH Chapter 6 provides a general list of actions to be taken at various stages of tendering. This list is not exhaustive and the project engineer (PE) shall expand the list, where necessary.
- 6.2.2 For construction contracts with estimated contract sum and term contracts with an estimated value of works in a 12-month period exceeding 5,000,000 Special Drawing Rights, the tender procedure for procurement governed by the Agreement on Government Procurement of the World Trade Organization (GPA WTO) stipulated in Paragraph 3.7 of PAH Chapter 6, DEVB TCW No. 2/2014, Clause 3.50 of this OP and the general requirements on government procurement covered by the "Hong Kong, China – New Zealand Closer Economic Partnership Agreement" in Clause 3.35 of this OP, shall be followed. Attention shall be paid to DoJ's advice given by FSTB in Clause 3.23 of this OP regarding the determining method whether a tender of a mixed nature is to be covered by WTO GPA and Clause 3.36 of this OP regarding the basis for calculating the contract value of a term contract.
- 6.2.3 Reference shall be made to Clause 3.56 of this OP regarding Free Trade Agreement between Hong Kong, China and Chile Government Procurement.


6.3 Calling for Tenders

- 6.3.1 The appropriate method of calling for tenders and selection of tender boards shall be determined, wherever applicable, in accordance with Paragraphs 2.1 and 2.2 of PAH Chapter 6, CEDD TC No. 05/2017 and FC No. 3/2009.
- 6.3.2 Guidelines for the timing of tender procedure are provided in Paragraph 2.4 of PAH Chapter 6.
- 6.3.3 For DevOs: If the design certificate has not been issued then tenders shall only be invited with the consent of DPM.
- 6.3.4 The PE must get the pre-tender estimate endorsed by the Pre-tender Estimate Vetting Committee (PTE Vet Com), the CEO Committee on Project Estimates (COPE) and the GEO Committee on Project Estimates (GEO COPE) for DevOs, CEO and GEO respectively. The PTE Vet Com, COPE and GEO COPE shall be chaired by DPM, DH(PEM) and DH(LPM) respectively and attended by CE and PE in charge of the respective contracts. The checklist in Annex 1 shall be used in preparing the pre-tender estimate. Reference shall be made to Clause 3.46 of this OP regarding the establishment of the Departmental Committee on Project Estimates (DCOPE).
- 6.3.5 Prior to invitation to tender, SDEV shall be alerted through Press Secretary to SDEV by the works department on the issue of important works tenders, especially those related to Chief Executive's initiatives in the policy address, via the departmental headquarters. The notification shall be made by including the item in the regular weekly submission for "Forthcoming Events and District Consultation" through TS/Office to SE/CR who shall then report the event in his routine media return.

6.4 Prerequisites to Calling for Tenders

6.4.1 Availability of Funds

- 6.4.1.1 Funding shall normally be secured before tendering. If it is necessary to initiate the tendering exercise before funding is secured, the procedure stipulated in FC No. 5/2016, ETWB TCW No. 4/2006 and Clause 3.27 of this OP shall be followed.

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6.4.2 Tender Documents

6.4.2.1 All tender documents shall be completed prior to calling for tenders. They shall comply with and satisfy the requirements prescribed in Paragraph 3.5 of PAH Chapter 6. Reference shall also be made to Clauses 3.26 of this OP regarding standard libraries and other documents for preparation of tender documents. DEVB's library of standard General Conditions of Tender, Special Conditions of Tender and Notes to Tenderers and library of standard Special Conditions of Contract are posted on the Works Group Intranet Portal with the link as follows:

http://portal.etwgi.etwb.hksarg/useful_information/

Subsequent changes to the standard provisions shall also be noted.

6.4.2.2 Paragraph 11.1 of PAH Chapter 5 shall be followed for allocation of a contract number. For CEO, the allocation of contract numbers shall also follow CEO Circular No. 2/2001. For DevOs, the format on the contract numbers and contract titles shall follow CEDD ASG No. 5/2017 and Clause 3.19 of this OP. The contract title shall be agreed by the CE responsible. For GEO, a register is maintained by TS/GEO, and PE shall request contract numbers from him.

6.4.2.3 For any in-house term contract tender document drafted based on sample documents, the additional procedures set out in **Annex 2** shall be followed.

6.4.2.4 For GEO: the procedure set out in Work Instruction No. GEO/LPM-OP-05-WI-01 shall be followed for Landslip Prevention and Mitigation works contracts administered by in-house staff.

6.4.2.5 Reference shall be made to Paragraph 9.27 of PAH Chapter 5 for selection of contracts to adopt non-contractual partnering.

6.4.2.6 Reference shall be made to the guidelines given in Paragraphs 9.11 and 9.32 of PAH Chapter 5 and Clause 3.34 of this OP regarding contract measures for prevention of non-payment of wages and limiting the tiers of sub-contracting.

6.4.2.7 Reference shall be made to ETWB TCW No. 50/2002 for contracts where joint ventures are allowed to tender.


6.4.2.8 Reference shall be made to Paragraphs 7.7, 7.8, 7.9 and 9.15 of PAH Chapter 5, ETWB TCW Nos. 30/2002 and 19/2005, ETWB's Interim Guidance Note dated 19.06.2006 and 22.11.2013, DEVB TCW Nos. 06/2010 and 08/2010 regarding site safety and environmental management.

6.4.2.9 If the project has adopted Systematic Risk Management, reference shall be made to the guidelines given in ETWB TCW No. 6/2005.

6.4.2.10 Reference shall be made to Paragraph 4.3.2 of PAH Chapter 6 regarding DEVB's guidelines for issuing information to prospective contractors in pre-contract stage.

6.4.2.11 Reference shall be made to Paragraph 7.10 of PAH Chapter 5, ETWB TCW Nos. 11/2004 & 29/2004 and DEVB TCW No. 7/2015 regarding preservation and protection of preserved trees and old and valuable trees.

6.4.2.12 Reference shall be made to DEVB TCW No. 3/2014 and Clause 3.51 of this OP regarding Contractors' Designs and Alternative Designs.

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- 6.4.2.13 Reference shall be made to Clause 3.58 of this OP regarding Revised SCC 2.
- 6.4.2.14 Reference shall be made to Clause 3.59 of this OP regarding the adoption of New Engineering Contract Form.
- 6.4.2.15 Reference shall be made to Clause 3.61 of this OP regarding the provision of site uniform for personnel working on public works sites.
- 6.4.2.16 Reference shall be made to Clause 3.62 of this OP regarding SCT 4 – Contractors' Joint Venture.
- 6.4.2.17 Reference shall be made to Clause 3.63 of this OP regarding revision to particular specification for recycled glass in concrete paving units for capital works projects.

6.5 Tendering

6.5.1 The normal procedure for selection of tenderers, tenderers' eligibility for various types of works (general works, specialist works, term contract works, WTO GPA works), and procedure for inviting tenders are provided in Paragraph 4.1 of PAH Chapter 6. The supply of additional copies of tender/contract drawings in electronic form shall follow Paragraph 8.4 of PAH Chapter 5. For GEO: The tendering procedure for Landslip Prevention and Mitigation works contract administered by in-house staff set out in Work Instruction No. GEO/LPM-OP-05-WI-02 shall also be followed.

6.5.2 The procedure for simplified tendering is stipulated in CEDD TC No. 05/2017 and FC No. 3/2009.

6.5.3 Single and Restricted Tendering

6.5.3.1 The procedure for single and restricted tendering in Paragraph 4.2 of PAH Chapter 6 shall be followed.

6.5.4 Prequalified Tendering

6.5.4.1 The procedure for prequalified tendering in Paragraph 4.3 of PAH Chapter 6 and DEVB TCW No. 5/2015 shall be followed. Prequalification of tenderers for maintenance works contracts shall follow the requirements in ETWB TCW Nos. 15/99, 15/99A and 15/99B.

6.6 Action during Tender Period


6.6.1 The pre-tender meeting, if held, shall be conducted in accordance with Paragraphs 5.1 and 5.3 of PAH Chapter 6.

6.6.2 The procedure for amendments to tender documents shall be carried out in accordance with Paragraphs 5.2, 5.3, 5.5 and 5.6 of PAH Chapter 6.

6.6.3 The extension of tender validity period, if required, shall be handled in accordance with Paragraph 5.8 of PAH Chapter 6.

6.7 Examination of and Report on Tenders

6.7.1 Matters relating to confidentiality of tenders, opening and listing of tenders and assessment panel are prescribed in Paragraphs 6.1, 6.2 and 6.3 of PAH Chapter 6.

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6.7.2 Examination of Tenders and Tender Evaluation

6.7.2.1 The procedure for tender examination and tender evaluation is prescribed in the SPR 365-370, Paragraphs 6.8 and 6.14 of PAH Chapter 6, DEVB TCW Nos. 4/2014 and 8/2014, Clauses 3.29, 3.55 and 3.56 of this OP.

6.7.2.2 Reference shall be made to Clause 3.27 of this OP and Paragraph 6.2 of PAH Chapter 6 regarding the requirement of informing DEVB the prices for the 3 highest combined score tenders within 3 working days after the opening of the tender fees.

6.7.2.3 Reference shall be made to Clause 3.38 of this OP regarding screening out non-conforming tenders in tender evaluation.

6.7.2.4 Reference shall be made to Clause 3.55 of this OP regarding CEDD Tender Committee – Observations on Identification of high / low rates.

6.7.3 Matters to be referred to Tenderers

6.7.3.1 Matters relating to non-compliance with the conditions of tender shall be dealt with according to the requirements stipulated in the Appendix to DEVB TCW No. 8/2014. The procedures for matters to be referred to tenderers are prescribed in Paragraph 6.6 of PAH Chapter 6. Reference shall be made to Clause 3.18 of this OP regarding correspondence in the examination of tender prices and rates.

6.7.4 Tender negotiations

6.7.4.1 Tender negotiations shall be conducted in accordance with Paragraph 6.17 of PAH Chapter 6, SPR 385, CEDD TC No. 05/2017 and FC No. 3/2009.

6.7.5 Tender Report by the Engineer Designate

6.7.5.1 The tender report shall be completed and signed by the Engineer designate for the Contract in accordance with Paragraph 6.18 of PAH Chapter 6, SPR 375, CEDD TC No. 05/2017 and FC No. 3/2009.

6.7.5.2 Reference shall be made to Clause 3.30 of this OP regarding format of recommendation paragraph in tender report.


6.7.5.3 Reference shall be made to Clause 3.37 of this OP regarding tender report recommending tender who has recently received adverse performance report.

6.7.5.4 Reference shall be made to Clause 3.39 of this OP regarding information on “Authority to Call Tenders” and “Conviction Records” in tender report.

6.7.5.5 Reference shall be made to Clause 3.60 of this OP regarding financial vetting before the award of a contract.

6.7.6 Endorsement and submission of Tender Reports

6.7.6.1 The procedure for endorsement and submission of tender reports shall be in accordance with Paragraphs 6.19 and 6.20 of PAH Chapter 6, SPR 375, DEVB TCW No. 8/2014, CEDD TC No. 05/2017, FC No. 3/2009 and Clauses 3.24, 3.31 & 3.32 of this OP. The requirements by FSTB in Clause 3.25 of this OP shall be followed. A copy of the tender report shall be provided to CEDD HQ (Attn: AD(T)) urgent by hand and TS/Office, both with the tender report but without the enclosure.

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6.7.7 Acceptance of Tender

6.7.7.1 The checking procedures prior to accepting a tender are prescribed in Paragraph 7.2 of PAH Chapter 6, CEDD TC No. 05/2017 and FC No. 3/2009.

6.7.8 Rejection of Tender

6.7.8.1 The procedure for rejection of tenders shall follow the requirements stipulated in the Appendix to DEVB TCW No. 8/2014 and Paragraph 6.21 of PAH Chapter 6.

6.7.9 Handling of complaints

6.7.9.1 If complaints are received from tenderers about the process of a tender exercise, they shall be handled in accordance with Paragraph 11.2 of PAH Chapter 6 and SPR 160.

6.7.10 Reporting of Tendering Performance

6.7.10.1 The procedure for reporting tendering performance is prescribed in Paragraph 7.7 of PAH Chapter 6.

6.8 Execution of the Articles of Agreement

6.8.1 The procedure and checklist relating to execution of Articles of Agreement and signing of Contract are prescribed in Paragraphs 8 and 9 of PAH Chapter 6.

6.8.2 For DevOs: The CE shall decide on the publicity need of contract signing. The PE shall report tendering performance of all tenderers in accordance with Paragraph 7.7 of PAH Chapter 6. The SCO shall acknowledge, to the Contractor, receipt of documents retained and distribute the signed contract documents and certified true copies in accordance with Paragraph 10 of PAH Chapter 6 and Clause 3.5 of this OP.

6.8.3 Reference shall be made to Clause 3.47 regarding alignment with the new Companies Ordinance (Cap. 622).


6.8.4 Reference shall be made to DEVB TCW No. 7/2014 regarding guidance on execution of public works contracts as a deed.

6.9 Cost Data Collection

6.9.1 Within 3 weeks from the date of award of a contract (i.e. the date of the letter of acceptance), the project engineer shall follow the guideline given in the Contract Rates Database System accessed via the CEDD Information Portal: <https://portal.cedd.hksarg/> to prepare a data file containing the unit rates of major items of the contract for submission to the Planning Unit. The Planning Unit shall input the data file into the Contract Rates Database System. For CEO: CEO Circular No. 5/2001 shall be followed.

6.10 Control of Approved Project Estimates

6.10.1 If the awarded contract prices are significantly lower than the estimated ones included in the Approved Project Estimates (APE), actions should be taken to reduce the APE with reference to Clause 3.28 of this OP.

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7. Records

7.1 For CEO/GEO:

Record	Responsible Officer	Minimum Retention Period
Tender procedure checklist	Division head	6 years
Unsuccessful tenders	Division head	3 months after contract execution or notification of no tender acceptance (3 years for tenders covered by WTO GPA)
Tender report	Division head	15 years
Other documents and records related to tenders	Division head	12 years
Signed contract documents and drawings	STA, HQ	12 years after completion of contract

7.2 For DevOs:

Record	Responsible Officer	Minimum Retention Period	Filing Index
Signed contract documents and drawings	STA, HQ	12 years after completion of contract	By contract number
For prequalification and tender documents in respect of contracts governed by WTO GPA	IR	3 years	By contract number
Other documents and records related to tenders	IR	3 months after execution of contract	By contract number

IR is the officer in charge of General Registry/Technical Registry

8. Annex

Annex 1 Checklist of Pre-Tender Estimate

Annex 2 Additional Procedures for the Preparation, Checking and Approval of In-house Contract Tender Documents Based on Sample Documents

Civil Engineering and Development Department

Annex 1 - Checklist of Pre-Tender Estimate

File No.

Contract No. _____

Contract Title _____

Procedures to be Completed	Completion Date
(i) Confirm scope of works	
(ii) Check drawings	
(iii) Check Particular Specifications	
(iv) Check Special Conditions of Contract	
(v) Check Particular Preambles	
(vi) Check amendments to Standard Method of Measurement	
(vii) Check estimated Bills of Quantities	
(viii) Reassess contingency items	
(ix) Identify and list special conditions in respect of nature of works and uncertain site conditions which may affect the accuracy of the estimate	
(x) PTE *VetCom/COPE/GEO COPE to endorse the PTE with due consideration given to the following:-	
(a) make reference to averaged unit rates of works of similar nature	
(b) adjustment to account for the prevailing market conditions and special site circumstances/requirements	
(c) the location of the site	

*Delete where appropriate

Note: In checking the BQ, the Project Engineer should pay particular attention to items that are sensitive to quantity variation (e.g. earthworks)

Checked by Project Engineer: _____
(NAME & POST)

(SIGNED)

(Date)

(OP05/Annex 1)

Civil Engineering and Development Department

Annex 2 - Additional Procedures for the Preparation, Checking and Approval of In-house Term Contract Tender Documents Based on Sample Documents

Note: The following procedures apply to the preparation, checking and approval of all CEDD's in-house term contract tender documents, which are prepared based on a Sample Document. These procedures, which are in response to SETW's memo ref. ETWB (CR)(W) 1-160/12 Pt. 1 dd. 11.1.2006, involve consolidation of existing procedures and adoption of recommendations in Item 4.24 of the Audit Commission's Audit Report No. 45, that are relevant to the operation of the department.

Notation:

PE: An engineer, a geotechnical engineer or a professional grade officer of other discipline responsible for drafting the tender documents. If more than one professional officer are involved in the drafting, the Head of Division shall assign one of them as the PE.

Project SE: The immediate supervisor of the PE in the project team.

Sample Document: A set of the Specification (GS and PS), Method of Measurement and Schedule of Rates commonly used for the type of term contracts concerned, the source of which may either be a set of sample contract documentation approved for use by the project office or an existing term contract document.

Responsibilities:

The PE shall be responsible for the drafting of the tender documents. If more than one officer are involved in the drafting of the documents, the PE shall be responsible for coordination and checking of the complete draft documents

The Project SE shall be responsible for overseeing the preparation of the tender documents by the PE and carry out checking and review of the tender documents following these procedures.

Procedures:

1. The Project SE and the PE shall agree on the Sample Document upon which the tender documents of a term contract will be based.

(OP05/Annex 2)

Civil Engineering and Development Department

Annex 2 - Additional Procedures for the Preparation,

Checking and Approval of In-house Term Contract

Tender Documents Based on Sample Documents

2. During the preparation of draft tender documents, if amendments (additions, omissions or changes) are required to the Sample Document the PE shall highlight such amendments in highlight mode and prepare a summary of changes. The summary of changes shall provide justification for the amendments.
3. The draft tender documents in highlight mode and the summary of changes shall be checked by the Project SE. If the Project SE is not satisfied with the amendments to the Sample Document, he shall resolve the matter with the PE.
4. The draft tender documents in highlight mode and a summary of changes agreed to by the PE and the Project SE shall then be forwarded to the Head of Division for checking and approval. If the Head of Division is not satisfied with the amendments to the Sample Document, he shall resolve the matter with the Project SE and the PE.
5. All tender documents shall be checked against the approved draft tender documents for correctness before they are issued to the tenderers. The Head of Division shall designate either the PE, an Assistant Engineer or a Survey Officer (Quantity) to carry out such checking.
6. Compliance with the above procedures by the officers concerned, shall be properly recorded and documented. A sample checklist is attached at Appendix A to Annex 2.
7. Reasonable time shall be allowed in each checking process referred above.

Civil Engineering and Development Department

Annex 2 - Additional Procedures for the Preparation, Checking and Approval of In-house Term Contract Tender Documents Based on Sample Documents

Appendix A - Sample Checklist

Contract No. _____

Title: _____

	Action	Completed on	Initial	Remarks
CE/CGE	Assign _____ as the PE for drafting the tender documents			
Project SE and PE	Agree on the Sample Document to be used for the drafting		Project SE _____ PE _____	Specify the documents agreed to be adopted as the Sample Document
PE	Prepare (1) the draft tender documents with amendments highlighted and (2) the summary of changes			
Project SE	I) Check (1) the draft tender documents with amendments highlighted and (2) the summary of changes			
	II) Resolve any issues with the PE and agree the tender documents and the summary of changes before submission to CE/CGE for approval			
CE/CGE	I) Check and approve the tender document and the summary of changes			
	II) Assign _____ as the Checking Officer to keep, print and check all tender documents against the approved draft before issuance to tenderers			
Checking Officer	To keep, print and check all tender documents against the approved draft before issuance to tenderers			