

28 June 2019

The Honourable Jeffrey Lam Kin-fung, GBS, JP
Chairman of the Joint Subcommittee to
Monitor the Implementation of
the West Kowloon Cultural District Project
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear *Chairman*,

I refer to Hon Tanya Chan's letter to you dated 23 April 2019 regarding the follow up questions raised to the earlier response (LC Paper No. CB(1)906/18-19(01)) to her previous letter on issues relating to the construction works of the Hong Kong Palace Museum (HKPM).

West Kowloon Cultural District Authority ("WKCDA") tender conditions for Building Works in considering tenderer's eligibility were generally modelled upon Development Bureau's ("DevB") Standard General Conditions of Tender. However, the Authority has the discretion to consider tenders submitted to the Authority by a Tenderer under suspension by the DevB in respect of Government works.

According to the provisions in the tender document, the Authority may accept an exception if the Tenderer provides a written application for such exception at the time of submission of the tender. China State Construction Engineering (Hong Kong) Ltd. submitted both the application for exception and the tender at the same time, i.e. on 19 November 2018, as stipulated by the provisions in the tender document.

Amongst other items, the following information are required to be provided with the application:

- i. information of the incident leading to the suspension;
- ii. improvement/remedial actions taken by the Tenderer following the incident; and
- iii. proposed measures to be implemented to ensure that such or similar incidents will not occur on the contract being tendered.

In the case in question, the application for exception was considered by the Tender Assessment Panel of the Authority and its recommendation for accepting the application was approved by the WKCDA Development Committee.

The assessment criteria of the tender submission were based on technical aspects and pricing aspects. Technical aspects include items such as organisation and resources, understanding of the design and construction, project management and implementation, as well as project references.

The Contractor's obligations on making good defects are included in the Conditions of Contracts, with a Defects Liability Period of 12 months commencing from the completion of the Works. Clause 53.1 of the General Conditions of Contract provides:

"53.1 The Contractor shall as soon as practicable after the expiry of the relevant Defects Liability Period, deliver up the Works.....to the Authority in the condition required by the Contract (fair wear and tear excepted). The Contractor shall, in accordance with any instruction issued during any Defects Liability Period..... :
(a) execute maintenance work including any work of,replacement, repair, rectification and making good any defect,or other fault identified during the Defects Liability Period."

We have listed out the items included in the \$3.5B donation from The Hong Kong Jockey Club Charities Trust in our last response, i.e. the cost for construction works, consultancy fees for design and quantity surveying services, remuneration of resident site staff and fee for contract administration, in-house management cost on HKPM to WKCDA and other necessary capital cost.

We note the suggestion on the arrangement of posting tender notices on West Kowloon Cultural District webpage, and will take it into consideration when we next review the system.

Yours sincerely



Duncan Pescod
Chief Executive Officer
West Kowloon Cultural District Authority