

SECTION 2 RULES FOR ADMINISTRATION OF THE LIST OF APPROVED CONTRACTORS FOR PUBLIC WORKS

2.1 General

2.1.1 The List of Approved Contractors for Public Works (the List) shall comprise contractors who are approved for carrying out public works in one or more of the categories listed below.

<u>Category</u>	<u>Managing Department</u>
Buildings	Architectural Services Department
Port Works	Civil Engineering and Development Department
Roads and Drainage	Highways Department
Site Formation	Civil Engineering and Development Department
Waterworks	Water Supplies Department

2.1.2 The Managing Department for a category is the department most closely connected with that particular type of work and is responsible for servicing and monitoring the performance of all contractors within that category. The Managing Department for a category may not necessarily be the department responsible for a contract let under that particular category.

2.1.3 Contractors within each category are further divided into Group A, B or C according to the value of contracts for which they are normally eligible to tender. A contractor's status in a particular group will be either probationary or confirmed. Probationary contractors are limited in the number and value of contracts for which they are eligible to tender and to be awarded in accordance with the rules set out in Sub-section 2.5 below.

2.1.4 A contractor on the List shall be responsible for the good behaviour of his employees, agents and sub-contractors in relation to any public works contract under his control. The contractor shall advise his employees, agents or sub-contractors that they are not allowed offering or giving any advantage or excessive entertainment to any of the Government employees or members of their family, or to solicit or accept any advantage or excessive entertainment from other employees, agents or sub-contractors in relation to the works under any public works contract. The contractor may be subject to regulating actions as stated in sub-paragraph 5.1.3(xiii) below if the contractor, his employees, agents or sub-contractors have committed any offence under the Prevention of Bribery Ordinance in relation to any public works contract unless the misconduct is not within the control of the contractor. In addition, the contractor may be subject to regulating actions for poor integrity such as negligence, misconduct and impropriety as proven in cases where his employees,

agents or sub-contractors have solicited, accepted or been given advantage as defined in the Prevention of Bribery Ordinance in relation to any public works contract unless the misconduct is not within the control of the contractor.

2.1.5 The Secretary for Development reserves the right to amend these Rules and any criteria pertaining to the administration of the List without reference to contractors on the List and any such amendments will be published by the Secretary for Development in the appropriate manner.

2.1.6 Applying to be placed on the List of the Development Bureau under any category shall mean the contractor unconditionally accepts these Rules and any future amendments or additions thereto. Failure or refusal to observe these Rules may lead to refusal of entry to the List for the category being applied for, or removal from all categories in which the contractor is listed.

2.1.7 A contractor on the List is required to submit updated company information (including but not limited to updated partnership agreements) upon request of the Secretary for Development or the Managing Department for reviewing his listing status as and when required. It is the duty of the contractor to immediately inform the Secretary for Development of any material changes of his company which may affect his listing status.

2.1.8 A contractor who has been removed from any category under the List for financial reasons or for failure to submit a tender within a period of three years under sub-paragraph 5.2.3(b)(vi) below may be allowed to apply for re-inclusion in this category at any time after removal. However, a contractor who has been removed from any category under the List for any other reasons is not eligible for re-inclusion in that category for a period of two years from the date of removal. Any application for re-inclusion, may it be an application for re-inclusion after removal due to misconduct, will be deemed a fresh application for admission and will be subject to the criteria set forth in these Rules for the time being in force.

2.1.9 A contractor who has been removed from the List due to misconduct may apply for re-inclusion under probation after expiry of two years from the date of removal with proof of successful completion of integrity training course¹, and establishment of an integrity management system (IMS) with the proof of complying with all the IMS requirements as prescribed in the “Guidelines for Setting Up of Integrity Management System” provided in **Appendix 2D**. Such proof can be substantiated by a statement of compliance issued by an independent auditor recognised by the Development Bureau, after his completion of the integrity audit exercise.

2.1.10 The contractor re-included under paragraph 2.1.9 above is required to upkeep the operation of the IMS and provide proof of complying with all the IMS requirements thereafter during the probation period through the integrity audit exercise on a yearly basis. Failure to satisfy this requirement shall result in regulating action to be taken against the contractor in accordance with Sub-section 5.2 below.

¹ The Development Bureau, with the assistance of the Corruption Prevention Department of the Independent Commission Against Corruption (ICAC), will develop training materials and conduct “train-the-trainer” workshops for top management, technical and supervisory staff of contractors who apply for re-inclusion in the List after the removal due to misconduct.

2.2 Group Tender Limits

2.2.1 The value upon which contracts are grouped is based on the value of the tendered sum offered by the successful tenderer. The Group Tender Limits are periodically adjusted and are currently set as follows: -

Group A - contracts of value up to \$100 million.

Group B - contracts of value up to \$300 million.

Group C - contracts of any values exceeding \$300 million.

2.2.2 Group C contractors will normally not be allowed to tender for contracts in Groups A and B unless the department considers that there may be an inadequate number of tenderers as a result of the restriction. In such cases, prior approval must be obtained from a D2, or higher level officer of the department concerned and notification given to the Managing Department of the intention to invite tenders from Group C contractors for lower group contracts.

2.3 Eligibility to Tender for Term Contracts

2.3.1 Eligibility to tender for term contracts shall be determined by the estimated value of the term contract except where a specialist category has been created in the List of Approved Suppliers of Materials and Specialist Contractors for Public Works in which case tenders shall be invited from contractors in the specialist category.

2.3.2 For the purpose of defining eligibility to tender, the value of a term contract shall be taken to mean the total estimated expenditure under the contract.

2.3.3 At the discretion of the head of the department responsible for the contract, contractors confirmed in Group B may be permitted to tender for term contracts above the limit of \$300 million but which are of a simple and repetitive nature, provided the contractors can demonstrate adequate technical and financial resources and have satisfactory performance records. Group B contractors who are carrying out or have recently completed similar term contracts satisfactorily shall be considered under this rule. However, the total value of the Group C term contracts in any one category should not exceed the Group C probationary limit given in sub-paragraph 2.5.1(c) or paragraph 2.5.4 below.

2.4 Admission

2.4.1 Applications from contractors for admission to the List can be submitted at any time, and should be addressed to the Secretary for Development, Works Branch,

Development Bureau, 15/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong (Attn: SEO(PS)).

2.4.2 The suitability of a contractor for inclusion in one or more of the works categories and in a particular group is assessed on the basis of both the contractor's global business activity and his activity in Hong Kong following his application for admission. Except in the most exceptional circumstances, a contractor will be admitted initially on probation to the appropriate category and group.

2.4.3 Upon receipt of an application by the Secretary for Development, the Finance Section of Development Bureau will investigate whether the applicant meets the financial criteria established by the Development Bureau included in **Appendix 2A**. The Managing Department will investigate whether the applicant has appropriate technical and management capability in respect of each particular category and group which they have applied for or is being considered and will submit a recommendation to the Secretary for Development within two calendar months from the date of referral to the Managing Department. If the technical vetting cannot be proceeded due to incomplete or inadequate information from the applicant, the Managing Department shall recommend rejecting the application within 6 weeks from the date of requesting supplementary information. All recommendations shall be personally endorsed by the Director, the Deputy Director or an equivalent D3 officer of the department concerned. Should the Managing Department fail to do so by the due date, a situation report, signed by an officer at D3 rank or above, must be submitted within one week from the due date to the Development Bureau (Attn.: PAS(W)4) stating the cause for delay and providing an anticipated date of completing the job. The minimum technical and management criteria for admission, confirmation and promotion within each category of work are included in **Appendix 2B**. If an applicant applies for more than one category of works, only one Managing Department, usually the one responsible for the highest group applied, will conduct the vetting of top management. For cases where the groups applied are the same, the Development Bureau will assign one department for the vetting of top management on a rotation basis. Admission will be subject to the applicant meeting the financial criteria, having the appropriate technical and management capabilities and in all other ways being considered suitable for inclusion in the List.

2.4.4 As a condition for admission, all applicants must possess or set up in Hong Kong a place of business as defined in Section 2 of the Business Registration Ordinance (Cap. 310) and employ in Hong Kong, the minimum number of full time management and technical personnel with relevant experience in engineering and project management specified in **Appendix 2C**. Details of the applicant's management and technical personnel and his business registration certificate shall be submitted with their applications for admission onto the List. In the case of partnerships, applicants must supply a certified true and complete copy of the partnership agreement signed by all partners in submitting their applications. The contractors who are admitted on the List must also submit updated partnership agreements to the Development Bureau whenever there are changes in their partnerships. All contractors shall employ the minimum number of full time management and technical personnel specified in **Appendix 2C** while he is on the List and shall keep the Development Bureau informed of any changes of such personnel. The contractor shall be removed from the List or demoted to a lower group if he fails to comply with this requirement.

2.4.5 To facilitate investigation by the Development Bureau and the Managing Department, applicants will be required to produce all necessary financial documents including their latest unconsolidated audited accounts showing their financial status (in English or Chinese), together with evidence of their technical and management capabilities. In the case of applications from contractors incorporated outside Hong Kong or whose main presence and head offices are outside Hong Kong, evidence of their technical and

management capabilities overseas can be submitted as proof. Unless the Secretary for Development specifically waives this requirement, these applicants must prove that their experience outside Hong Kong meet the admission criteria set out in **Appendices 2B and 2C** and such evidence must be substantiated by the consul or trade commissioner of the applicants' country in Hong Kong, or other appropriate authorities of the applicants' home country, which are considered acceptable by the Development Bureau. For instance, contractors who are incorporated in the Mainland are required to submit a certified true and complete copy of certificates/proof issued by the Ministry of Commerce, or the China International Contractors Association as delegated by the Ministry of Commerce, and/or other authorities which are accepted by the Development Bureau. Notwithstanding the above, the Secretary for Development may seek references on the applicants' technical capabilities from the Ministry of Construction and other sources or confirmation on the authenticity of the proof provided by the applicants from the relevant authorities including the employers of the concerned projects completed by the applicants.

2.4.6 Contractors applying for admission to the Buildings category are required to be registered in the Contractors' Register kept by the Building Authority in accordance with the Buildings Ordinance (Cap 123) and shall submit proof of their registration with their applications.

2.4.7 Admission to the List will be notified in writing to the applicant by the Secretary for Development. The letter of notification will specify the works category or categories to which the applicant has been admitted, his group and status as either probationary or confirmed. An unsuccessful applicant will be advised of the reasons for not being admitted but will be given the opportunity to present his view of the matter within 14 days from the date of notification before deciding on such action. The non-admission is confirmed if no representations from the applicant are submitted within the specified period.

2.4.8 The List is published annually in the Government of the Hong Kong Special Administrative Region Gazette and/or regularly in the web site of the Development Bureau as appropriate, giving the names of the contractors and their respective categories. Amendments to the List are also published from time to time.

2.5 Probationary Status

2.5.1 Probationary contractors are eligible to tender, and for the award of contracts, in each of the categories to which they have been admitted on probation, subject also to the rules set out in paragraphs 2.5.2 to 2.5.5 and, where applicable, paragraph 2.5.6 below, as follows (the rules in this paragraph 2.5.1 shall be read together with paragraph 2.5.1A):

(a) Probationary contractors in Group A

A probationary contractor is eligible to tender or for award of any number of Group A contracts in the same category, provided the total value of works in the Group A contracts that he already holds and the Group A contract being procured under the same category does not exceed \$100 million.

(b) Probationary contractors in Group B

A probationary contractor is eligible to tender or for award of:

- (i) any number of Group A contracts in the same category; and

- (ii) any number of Group B contracts in the same category, provided the total value of works in the Group B contracts that he already holds and the Group B contract being procured under the same category does not exceed \$300 million.

(c) Probationary contractors in Group C

Unless provided otherwise, a probationary contractor is eligible to tender or for award of Group C contracts in the same category, provided that the total number of the Group C contract that he already holds and the Group C contract being procured under the same category does not exceed two (2) and that the total value of works in the Group C contracts that he already holds and the Group C contract being procured under the same category does not exceed \$700 million.

2.5.1A For the purpose of eligibility checking in accordance with paragraph 2.5.1:

- (a) all probationary contractors' eligibility to tender as at the date set for the close of tender in the tender documents for the contract being procured or, if the date has been extended, the extended date, will be checked to screen out those that are ineligible to tender;
- (b) when recommending the award of a contract to a probationary contractor, the eligibility of the probationary contractor concerned for award of the contract being procured will be re-checked at the date when the tender report is completed and signed for submission to the relevant authority for determination of contract award and any new contracts awarded to the probationary contractor after tender closing up to and including this date will be taken into account. The tender report should contain a statement confirming that such re-checking has been done at the date when the tender report is completed and signed as aforementioned in recommending acceptance of the tender from the probationary contractor concerned. If the re-checking reveals that the contract limits of this probationary contractor is exceeded and he is no longer eligible for award of the contract, the tender recommendation should be revised accordingly;
- (c) "contract being procured" means the contract being procured under a particular procurement exercise in which the probationary contractor's eligibility is checked;
- (d) whether a contract is a Group A contract, Group B contract or Group C contract shall be determined by reference to the relevant group tender limits prevailing at the first publication date of tender invitation or, where the tender invitation is not published, the date of issuance of the tender invitation for the contract;
- (e) notwithstanding (d) above, in counting the number of Group C contract(s) that a probationary contractor already holds, only Group C contract(s) with a contract value exceeding the minimum value specified for Group C current at the date set for close of tender in the tender documents for the contract being procured or, if this has been extended, the extended date shall be counted.

2.5.2 For the purpose of checking the contracts which a probationary contractor

already holds under the rule in paragraph 2.5.1 above, the contracts which are completed shall not be counted. In this regard, a contract is considered completed when the certificate of completion of the works or the last completed section of the works (excluding establishment works) is issued or, for term contracts, the issue of completion certificate for the last completed works order (excluding establishment works). The rule in paragraph 2.8.2 below shall extend to probationary contractors in Group A and Group B.

2.5.3 Contracts (each of an original contract value corresponding to or above the group tender limit of the contract being procured) awarded by the Housing Authority in the corresponding category will be taken into consideration when calculating the total number and total value of works for checking whether the probationary contractors are eligible to tender and for the award of contracts, except as provided in paragraph 2.5.4 below.

2.5.4 Sub-paragraph 2.5.1(c) and paragraph 2.5.3 do not apply to probationary Group C contractors in the “Buildings” category tendering for Group C contract in the “Buildings” category with the Architectural Services Department, who have as at the date set for the close of tender in the tender documents for the contract being procured or the extended date (if the date has been extended), active Housing Authority contract(s) each of an original contract value exceeding \$300 million in the corresponding category. If the total outstanding value of such Housing Authority contract(s) exceeds \$700 million, this probationary Group C contractor will be restricted to tender or for award of one Group C contract in the “Buildings” category with the Architectural Services Department. Provided always that the total Group C contracts that he already holds and the Group C contract being procured under the same “Buildings” category does not exceed two (2) in number and does not exceed \$700 million in the total value of works. Active Housing Authority contracts here shall mean those Housing Authority contracts which are not completed within the meaning as provided in the second sentence of paragraph 2.5.2 above.

2.5.5 The total value of works in the relevant group and category of contracts that a probationary contractor already holds as described in the rule in paragraphs 2.5.1 and 2.5.4 above should be referred to as the total outstanding value of the existing contract(s) held by probationary contractors in the same group and category. The outstanding value of an existing contract shall be the difference between the original contract sum and the aggregate of all payments certified under the contract up to and including the date set for the close of tender in the tender documents for the contract being procured or, if this has been extended, the extended date for the contract being procured. The outstanding value shall be taken as zero if the original contract sum is less than the aggregate of all payments certified. For the purpose of checking eligibility for award of contract mentioned in paragraph 2.5.1A(b), the same outstanding value of the existing contract(s) determined as aforesaid shall be added to the total outstanding value of new contracts in the relevant group and category of contracts awarded after tender closing in checking compliance with the contract limits for probationary contractors.

2.5.6 Where –

- (a) a probationary contractor has submitted tenders and attained the highest combined scores for more than one contract in the same category and group; and
- (b) if the award of these contracts are determined at the same time but the award of two or more of these contracts to that probationary contractor will exceed the limits on number and/or value of contracts in the relevant category and group stipulated in paragraph 2.5.1 above,

the Government shall be entitled to determine which contract(s) is/are to be awarded to that probationary contractor on the basis of a combination of tender awards of these contracts that would cost least to the Government. An example is provided in **Appendix 7**.

2.6 Confirmation

2.6.1 A probationary contractor may apply for confirmation in writing to the Secretary for Development when he has satisfactorily completed works appropriate to his probationary status in accordance with the criteria for confirmation in **Appendix 2B**. The Managing Department shall submit a recommendation to the Secretary for Development within two calendar months from the date of referral to the Managing Department. The procedures of submitting a recommendation are the same as those given in paragraph 2.4.3 above. Confirmation will also be subject to the contractor being able to meet the financial criteria applicable to confirmed status, having the appropriate technical and management capabilities and in all other ways being considered suitable for confirmation. The contractor will be notified in writing accordingly. If the contractor's application is unsuccessful, he will be advised of the reasons.

2.7 Promotion

2.7.1 A confirmed contractor wishing to be promoted to the next higher group in a particular category may apply in writing to the Secretary for Development. The Managing Department shall submit a recommendation to the Secretary for Development within two calendar months from the date of referral to the Managing Department. The procedures of submitting a recommendation are the same as those given in paragraph 2.4.3 above. Promotion will be subject to the contractor being able to meet the financial criteria applicable to the higher group, having the appropriate technical and management capabilities, a satisfactory record of performance and in all respects being considered suitable for promotion. The contractor will be notified in writing accordingly. If the contractor's application is unsuccessful, he will be advised of the reasons.

2.7.2 Other than in the most exceptional circumstances, a contractor applying for promotion will be admitted initially on probation to the next higher group and the rules applicable to probationary contractors will apply.

2.8 Tendering

2.8.1 Invitations of tenders for public works contracts will be published in the Government Gazette normally for contracts with estimated value exceeding a certain limit. Tender invitations for works contracts under that limit may only be published in the web site of the Financial Services and the Treasury Bureau.

2.8.2 Invitations to contractors to tender will normally be limited to the particular group appropriate to the value of the contract. However, when the work involved is of a simple or repetitive nature, the span of groups invited to tender may be broadened at the discretion of the head of the department responsible for the contract, without immediate regard to the value of the contract.

2.8.3 If a contractor's tender falls outside the limits applicable to his group, category or status, he may not be eligible for the award of the contract.

2.8.4 A probationary contractor's eligibility to tender and for the award of contracts is more particularly set out in Sub-section 2.5 above. For the avoidance of doubt, a probationary contractor who is considered to have exceeded the tendering limits as set out in Sub-section 2.5 above at the time of tender invitation will still be permitted to take tender documents in respect of a contract and to submit a tender. However a tender submitted by such probationary contractor will not be considered unless he has become eligible to tender for the contract being procured at the date set for the close of tender in the tender documents, or if this has been extended, the extended date. Where the tender submitted by a probationary contractor is not considered because he has exceeded the limits given in Sub-section 2.5 above at tender closing as aforesaid, the procuring department shall, after the award of the contract has been made, notify him in writing of the reasons for rejection of his tender and remind him to check carefully against these limits in future bidding.

2.8.5 Contractors not in the group or confirmed status specified in the tender invitation or a tenderer who has applied for admission or promotion to the group specified in the tender invitation or who has applied for confirmed status will be permitted to take tender documents and may submit a tender. However, such a tender will not be considered unless his application for admission or promotion or, as the case may be, confirmation is approved by the date set for the close of tender, or if this has been extended, the extended date.

2.8.6 The Government reserves the right of dealing with contracts demanding the application of considerable financial resources, highly specialized equipment or unusual professional or technical expertise of a high order, on the basis of single, restricted or prequalified tendering by invitation.

2.9 Award of a Contract

2.9.1 Before recommending the award of a contract, the department responsible for the contract must be satisfied that the contractor being recommended is both technically and to the best of their knowledge financially capable of successfully carrying out the contract and, all other contracts he may hold. Please also refer to ETWB TCW No. 10/2004 for tenderer's eligibility for the award of works contracts.

2.9.2 In checking the financial capability of the tenderers, the department responsible for the contract is required to consult the Finance Section of Development Bureau :

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- (a) in respect of all tenderers for contracts of any values exceeding \$15,000,000; and
- (b) in cases where there is reason to doubt the financial capability of tenderers for contracts with a value of \$15,000,000 or less.

For both (a) and (b) above, it is normally only necessary to refer the three highest combined scorers for a contract to the Finance Section of Development Bureau for financial checking.

2.9.3 A contractor must meet the financial requirements for acceptance of tenders established by the Development Bureau and included in **Appendix 2A** before the award of a contract. It should be noted that should the contractor fail to meet the financial requirements or to rectify the shortfall, or if the contractor's loss rate is greater than 30% under the Profitability Trend Analysis, he will not be recommended for the award of contracts in his prevailing groups.

2.10 Submission of Accounts

2.10.1 All contractors shall submit a copy of their unconsolidated audited accounts annually to the Secretary for Development. In addition, in order to enable the Finance Section of Development Bureau to make a more up-to-date financial appraisal, all Group C contractors shall submit half-yearly accounts. These shall be certified by their auditors but, if this is not feasible, by the directors, partners or the sole proprietor of the company.

2.10.2 Contractors are required to provide additional financial information as and when required to enable the Finance Section of Development Bureau to carry out ad hoc financial assessment.

2.11 Holding Companies and Subsidiaries

2.11.1 A holding company and his subsidiaries shall be permitted to be included in the List, either in the same or different categories or groups. However, the holding company and all its subsidiaries who are included in the List shall each give an undertaking that only one company will submit a tender for a particular contract. Failure to observe this undertaking will render all related tenders null and void. The existence of a holding-subsidiary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622).

2.12 Regulating Actions

2.12.1 Please refer to Section 5 below.

2.13 Change of Company Name, Substitution and Transfer of Benefits and Obligations of Contracts

2.13.1 Please refer to Section 6 below.

2.14 Quality Management System Certification

2.14.1 Please refer to WBTC No. 13/2001 and ETWB TCW No. 13/2001A.

2.15 Changes in Company Structure

2.15.1 As provided in paragraph 2.1.7 above, it is the duty of the contractor to immediately inform the Secretary for Development of any material changes of his company which may affect his listing status, which include changes in company structure. When there are changes to the partnership, the contractor shall submit updated partnership agreements to the Secretary for Development in accordance with paragraph 2.4.4 above. Upon receipt of the contractor's notice or update, the Development Bureau will carry out vetting and, where necessary, ascertain the contractor's capability for retention. The Secretary for Development shall have the absolute discretion on whether or not such changes shall be approved for purpose of retention on the List and shall inform the contractor in writing as soon as a decision has been made.

2.15.2 Changes of a limited company involving a change in his legal entity will be classified as substitution under Sub-section 6.5 below, and are not allowed unless as allowed under Section 6.

2.15.3 Changes from sole-proprietorship to partnership are normally allowed, provided that the sole-proprietor becomes one of the partners in the partnership, holding a majority percentage of share after the change and the newly-formed partnership meets the minimum financial and personnel requirements as set out in **Appendices 2A** and **2C**. When the Development Bureau is informed of the change, the contractor shall confirm in writing whether there are any changes to the full time management and technical personnel of the contractor and, if so, specify the details of the change. Changes from sole-proprietorship to a limited company are not allowed unless as allowed under Section 6.

2.15.4 Changes in partnership involving mere addition of partner(s) are normally allowed, provided that the existing partners before the addition remain as partners in the newly constituted partnership and the newly constituted partnership meets the minimum financial and personnel requirements as set out in **Appendices 2A** and **2C**. Financial assessment will be conducted to ascertain if the new composition of partnership still meets the retention requirements in the List. When the Development Bureau is informed of the change, the contractor shall confirm in writing whether there are any changes to the full time management and technical personnel of the contractor and, if so, specify the details of the change.

2.15.5 For changes in partnership involving the death or retirement or replacement of an existing partner, a full vetting on the firm's financial, management, technical and personnel capabilities shall be conducted afresh in accordance with the criteria specified in **Appendices 2A** to **2C**. For the purpose of assessing the technical and management capabilities under **Appendix 2B**, the experience of each partner will be apportioned according

to his percentage of share in the partnership. Any experience or qualification claimed by a partner by virtue of being a shareholder, director, agent or employee of a limited company will not be counted as the experience or qualification of the partner. Under normal circumstances, only the experience or qualification obtained by a partner in the capacity of a proprietor or a partner of a partnership will be counted. The partnership must collectively meet the stipulated requirements. Changes from partnership to a limited company are not allowed unless as allowed under Section 6.

2.15.6 Any contractor who fails to comply with the retention requirements set out in this Sub-section or fails to obtain the approval of the Development Bureau for the changes shall be liable to be removed from all categories of the List.