

## APPENDIX 2A Financial Criteria for Retention on the List and Requirements for Acceptance of a Tender

### Introduction

1. The financial criteria for retention on the List of Approved Contractors for Public Works (List) and requirements for acceptance of a tender are established by Development Bureau. Contractors are required to:

- (i) submit the original or a certified true copy of their latest audited accounts and latest half-yearly management accounts in case the contractor is a Group C contractor on the List of Approved Contractors for Public Works;
- (ii) submit certified statements of outstanding workload;
- (iii) provide supplementary information; and
- (iv) answer all reasonable enquiries from Development Bureau

to ascertain that these financial criteria and requirements are met.

2. In accordance with the Rules for Administration of the List of Approved Contractors for Public Works, a contractor applying for admission, confirmation or promotion must meet and maintain the financial criteria applicable to his appropriate group and status. The financial information required to be submitted by the contractors for such purposes is set out in **Annex to Appendices 2A & 3B**.

### Financial Criteria for Retention on the List

3. For retention on the List, a contractor is required to maintain certain minimum levels of employed and working capital applicable to the appropriate group and status. The minimum levels are periodically adjusted and are currently set as follows:

	<u>Minimum Employed Capital</u> (Note 3) HK\$	<u>Minimum Working Capital</u> HK\$
(i) <u>For Group A</u>		
(a) Probationary	2,100,000 plus \$1.2M for every \$12M of annualized outstanding works or part thereof above \$21M, subject to a maximum of \$4.4M	2,100,000 or 15% on annualized outstanding works, whichever is higher
(b) Confirmed	4,000,000 plus \$2.2M for every \$22M of annualized outstanding works or part thereof above \$40M, subject to a maximum of \$8.3M	4,000,000 or 15% on annualized outstanding works, whichever is higher

	Minimum <u>Employed Capital</u> (Note 3) HK\$	Minimum <u>Working Capital</u> HK\$
<b>(ii) <u>For Group B</u></b>		
(a) Probationary	4,900,000 plus \$2.9M for every \$43M of annualized outstanding works or part thereof above \$73M, subject to a maximum of \$10.6M	4,900,000 or 10% on annualized outstanding works, whichever is higher
(b) Confirmed	10,100,000 plus \$5.8M for every \$86M of annualized outstanding works or part thereof above \$150M, subject to a maximum of \$21.7M	10,100,000 or 10% on annualized outstanding works, whichever is higher
<b>(iii) <u>For Group C</u></b>		
(a) Probationary	14,800,000 plus \$2 million for every \$100 million of annualized outstanding works or part thereof above \$950 million	14,800,000 or 8% on the first \$950 million of annualized outstanding works and 10% on remainder, whichever is higher
(b) Confirmed	18,800,000 plus \$2 million for every \$100 million of annualized outstanding works or part thereof above \$950 million	18,800,000 or 8% on the first \$950 million of annualized outstanding works and 10% on remainder, whichever is higher

Note : (1) The above revised financial criteria shall take effect on 1 December 2013. However, in order to facilitate the existing contractors on the List to maintain their present listing status, the existing contractors will be given a 12- months' grace period to adjust to the above new financial criteria. In other words, all management accounts or audited accounts with accounting periods ending on or after 1 December 2014 will be subject to the above new financial criteria.

(2) As regards applications for admission, confirmation or promotion in the List, contractors shall meet the above new financial criteria applicable to the specific group in question for applications made on or after 1 December 2013. Applications made prior to 1 December 2013 shall be subject to the financial criteria applicable at the time of application and the successful applicants shall meet the above new financial criteria within the same deadline as the existing contractors aforesaid. For the purpose of tender evaluation, contractors shall be subject to the above revised financial criteria if the tenders are invited on or after 1 December 2013.

- (3) The issued and paid up capital and shareholders' funds should both meet the level of minimum employed capital applicable to his highest group and status.
4. A contractor in more than one works category must maintain the minimum levels of employed and working capital applicable to his highest group and status.
5. The annualized outstanding works for retention purpose is defined as the combined annual value of uncompleted works on public works contracts, Housing Authority contracts and contracts with the private sector on a world-wide basis.
6. Public works contracts include all construction-related contracts and works-related maintenance contracts where Government of HKSAR is the employer.
7. Shortfall in employed capital can be rectified by an increase in share capital/partners' funds/proprietor's funds, while shortfall in working capital can be rectified by the following methods:
- (i) increase in share capital/partners' funds/proprietor's funds to be paid up in cash; or
  - (ii) arrangement of a bank loan that is not repayable within 12 months; or
  - (iii) deferment in repayment of outstanding loan to directors or related companies by means of a deferred loan agreement in an acceptable legal format.
- Bank overdraft facility can be a method to rectify the shortfall in working capital only for shortfall relating to outstanding workload.
8. If a contractor's business is at a loss, the average loss rate shall not be greater than 30% for the purpose of retention on the existing group status. All audited accounts submitted by the contractors shall be subject to the Profitability Trend Analysis, which is an analysis of the financial performance of a contractor with reference to its profit or loss over the past three consecutive years.
9. The average loss rate is defined as the weighted average of the net loss as a percentage of the opening balance of the shareholders' funds or net worth over the past 3 years with weights of 3:2:1. The net loss and the opening balance of the shareholders' funds or net worth will be extracted from the audited accounts. Subsequent capital injection by a contractor to strengthen the shareholders' funds or net worth will be taken into account in determining the revised loss rate for the year under review.
10. For a newly formed company with only two years' operations, the average loss rate is defined as the weighted average of the net loss as a percentage of the opening balance of the shareholders' funds or net worth over the past two years with weights of 3:2.
11. For a newly formed company with only one year's operation, the average loss rate is defined as the net loss as a percentage of the shareholders' funds or capital at the start of business.
12. Contractors are required to provide additional financial information as and when required to enable Development Bureau to carry out ad hoc financial assessment.

**Financial Requirements for Acceptance of a Tender**

13. In order to be recommended for the award of a contract of whatever value in any category of work, a contractor's employed and working capital, as assessed from the accounts, should amount to at least the level required for retention on the List. In this regard, the employed and working capital requirement would base on the latest statement of outstanding workload and would take into account the annual value of the new tender. The financial information required to be submitted in the tender by the contractors is set out in **Annex to Appendices 2A & 3B**.

14. In the case of a joint venture, each participant shall be assessed on his own financial capability in taking up his share of the tender. However, if any of the participants cannot meet the required capital level for undertaking his share but the other participant(s) of the joint venture has met the financial criteria for undertaking the whole contract, the joint venture may still be regarded as satisfying the financial requirements collectively.

15. If a contractor's average loss rate is greater than 30%, he will not be recommended for tender award for contracts in his prevailing group.

16. Rectification in shortfall for employed and working capital for tendering purpose follows the same methods adopted for retention purpose.

**Certified Statements of Outstanding Workload**

17. Each contractor submitting audited or management accounts and/or tendering for contracts of whatever value will be required to submit with his accounts/tenders a statement certified by his Managing Director or by a person authorized to sign Government contracts on the tenderer's behalf giving the following information:

- (i) a list of current contracts held with Government and the private sector including the Housing Authority, both as main contractor or subcontractor;
- (ii) the approximate value of uncompleted works on each of the contracts at (i);  
and
- (iii) the approximate time required to complete each of the contracts at (i).