

APPENDIX 3B Financial Criteria for Retention on the Specialist List and Requirements for Acceptance of a Tender

Introduction

1. The financial criteria for retention on the List of Approved Suppliers of Materials and Specialist Contractors for Public Works (Specialist 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 also 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 Suppliers of Materials and Specialist Contractors for Public Works, a contractor applying for admission, confirmation or promotion must meet and maintain the financial criteria applicable to his appropriate category and group. 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 Specialist List

3. For retention on the Specialist List, a contractor should generally possess at least a positive capital value. In addition, a contractor is required to maintain certain minimum levels of employed and working capital applicable to the appropriate category and group. The minimum levels are periodically adjusted and are currently set as follows:

		Minimum Employed Capital (Note 3)	Minimum Working Capital
Category		Group	
			HK\$
(i)	Air-conditioning Installation	I	570,000
		II	4,700,000
(ii)	Electrical and Mechanical Installation for Sewage Treatment and Screening Plant	-	3,400,000

Category		Group	Minimum Employed Capital (Note 3) HK\$	Minimum Working Capital HK\$
(iii)	Electrical Installation	I	570,000	570,000
		II	570,000	570,000
		III	4,700,000	3,400,000
(iv)	Ground Investigation Field Work	I	570,000	570,000
		II	4,700,000	3,400,000
(v)	Land Piling	I	570,000	570,000
		II	9,300,000	8,600,000
(vi)	Landslip Preventive/Remedial Works to Slopes/Retaining Walls	-	8,600,000	8,600,000
(vii)	Prestressed Concrete Works for Highway Structures	-	1,140,000	1,140,000
(viii)	Road Marking	-	1,140,000	1,140,000
(ix)	Specialized Operations for Highway Structures	-	1,140,000	1,140,000
(x)	Structural Steelwork	-	1,140,000	1,140,000
(xi)	Supply and Installation of Bearings for Highway Structures	-	1,140,000	1,140,000
(xii)	Supply and Installation of Expansion Joints for Highway Structures	-	1,140,000	1,140,000
(xiii)	Supply and Installation of Pumpsets and Associated Pipework	-	3,400,000	3,400,000
(xiv)	Supply and Installation of Water Treatment Plant	-	3,400,000	3,400,000
(xv)	Supply of Bituminous Pavement Materials and Construction of Special Bituminous Surfacing	-	3,400,000	3,400,000

Category		Group	Minimum Employed Capital (Note 3) HK\$	Minimum Working Capital HK\$
(xvi)	Swimming Pool Water Treatment Installation	-	3,400,000	3,400,000
(xvii)	Turn-key Interior Design and Fitting-out Works (Note)	I/II	14,800,000	14,800,000
(xviii)	Categories other than those listed above and under para 3.4.6 in Section 3	Any	570,000	570,000

Note: The contractor under this category and group is also required to have a minimum annual turnover of HK\$50 million in each of the immediate past three years.

4. If a contractor has outstanding contracts in hand, his working capital for retention purpose should amount to at least the following:

Condition	Level of Working Capital required
(i) Contractor has either employed or working capital under HK\$4.2 million	15% of the combined annual value of uncompleted works on outstanding contracts both in the public and private sectors including the Housing Authority or the minimum working capital specified in paragraph 3 above, whichever is higher
(ii) Contractor has both employed and working capital not less than HK\$4.2 million respectively	10% of the combined annual value of uncompleted works on outstanding contracts both in the public and private sectors including the Housing Authority or the minimum working capital specified in paragraph 3 above, whichever is higher
(iii) Contractor is also a Group C contractor on the List of Approved Contractors for Public Works	8% on the first \$950M and 10% on the remaining combined annual value of uncompleted works on outstanding contracts both in the public and private sectors including the Housing Authority as required under paragraph 3(iii) of Appendix 2A or the minimum working capital specified in paragraph 3 above, whichever is higher

Note : (1) The above revised financial criteria shall take effect on 17 July 2009. However, in order to facilitate the existing contractors on the Specialist List to maintain their present listing status, the existing contractors will be given a 18-months' grace period to adjust to the above new financial criteria. In other words, all audited accounts with accounting periods ending on or after 16 January 2011 will be subject to the above new financial criteria.

(2) As regards applications for admission, confirmation or promotion in the Specialist List, contractors shall meet the above new financial criteria applicable to the specific category, group and status in question for applications made on or after 17 July 2009. Applications made prior to 17 July 2009 shall be subject to the financial criteria applicable at the time of application and the successful applicants shall meet the above new financial criteria before the end of the same grace period as the existing contractors aforesaid. For the purpose of tender evaluation, contractors in the relevant categories, groups and status of the Specialist List shall be subject to the above revised financial criteria if the tenders are invited on or after 17 July 2009.

(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.

5. A contractor in more than one category must maintain the minimum levels of employed and working capital applicable to his highest category, group and status including those classified for retention on the List of Approved Contractors for Public Works. The financial criteria for each group and status to be retained on the List of Approved Contractors for Public Works are set out in **Appendix 2A**.

6. 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.

7. 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.

8. 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.

9. 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.
10. 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.
11. 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

12. 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 Specialist 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**.

13. 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.

14. 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 or category.

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

Certified Statements of Outstanding Workload

16. 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).