

Notes to Tenderers

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Amendment Sheet

* alternatives

Clause	Remarks/Guidelines
<p>(a) *[The tender box is located in the lift lobby on the Lower Ground Floor of the Central Government Offices (East Wing), 20 Lower Albert Road (at its junction with Garden Road), Hong Kong.]</p> <p>*[The tender box is located in Room 4128f on the 41st Floor, Queensway Government Offices, 66 Queensway, Hong Kong.]</p>	<p>Location of tender box.</p> <p>* Delete as appropriate.</p>
<p>(b) The time and venue of the pre-tender meeting (if any).</p>	<p>Pre-tender Meeting.</p>
<p>(c) Should the tenderer for any reason whatsoever be in doubt about the precise meaning of any item or figure contained in the documents he shall seek clarification from the [<i>Insert contact details as appropriates.</i>]</p>	<p>Advice directing tenderers to submit any queries about the particulars of the tender documents to the Engineer designate for the Contract, or the chief engineer preparing the tender documents (the contact telephone number for enquiries on the tender should also be included).</p>
<p>(d) Insert check list here.</p>	<p>The check-list for tenders deposited in the Government Secretariat Tender Box issued by the Financial Services and the Treasury Bureau. (Appendix 5.8 of the PAH).</p>
<p>(e) “Documents of unsuccessful tenderers may be destroyed *three months ⁽¹⁾/three years⁽²⁾ after the date the contract has been awarded.”</p>	<p>Advice to tenderers that documents of unsuccessful tenderers will be destroyed at certain time after the date of the contract has been awarded and the agreement signed.</p> <p>* delete as inappropriate</p> <p>(1) for tenders not covered by WTO GPA. (See S for Tsy’ s memo FT 41/88 dated 30.6.95)</p> <p>(2) for tenders covered by WTO GPA. (See WB TC 22/98)</p>

Clause	Remarks/Guidelines
	Before destruction, project officers are required to check whether on-going disputes may require retention of these documents as evidence. Consult LAD(W) if in doubt.
(f) Tenderers should inform Government in their tender submission of any factor which might affect their status of qualifications. Government reserves the right to review the tenderers' qualified status in the light of any new information relevant to their qualification.	Advice to tenderers to inform Government of any factor which might affect the tenderer's qualified status (See S for Tsy's memo FT 41/88 dated 30.6.95).
(g) This is a lump sum contract with part remeasurement. The General Conditions of Contract to be used are the Government of the Hong Kong Special Administrative Region [General Conditions of Contract for Civil Engineering Works (1999 Edition)] [#] with Special Conditions of Contract (if any). Those items in the Bills of Quantities that are subject to remeasurement are stated as being measured "provisional".	Advice to tenderers for lump sum contracts (see WBTCs No. 17/95 & 17/95A). [#] Words in square brackets to be changed to the appropriate version.
(h) Tenders will be evaluated in accordance with the formula approach set out below. Tenderers should note ETWB TC(W) 8/2004 which sets out the use of the formula approach for tender evaluation. Tenderers shall note that Government is not bound to accept the tender with the highest overall score or any tender and may cancel the tender exercise on public interest ground. In considering the acceptance of a tender, Government will take account of all relevant circumstances including the following:- (i) The overall score;	To be used for tender evaluation using formula approach (Taken from ETWB TC(W) 8/2004 on Tender Evaluation of works contracts).

Clause	Remarks/Guidelines
<p>(ii) The effect of incident of payments by discounting future payments to obtain the present values if the tendered prices/overall marks are very close (<i>only for tenders with a tender price</i>);</p> <p>(iii) The effect of exceptionally high or low priced items; and</p> <p>(iv) The tenderer's capability (financially, commercially and technically) in undertaking the contract. For the avoidance of doubt, matters such as bankruptcy, false declaration, lack of integrity, and acts of dishonesty, the latest available information and reports reflecting serious shortfall in performance and the latest available information and reports relating to serious safety or environmental incidents may be taken into account in determining whether a tenderer is fully capable of undertaking the contract.</p> <p>[Set out the adopted formula approach (the formula and the relevant notes). Incorporate details of the Stage I Screening and all the mandatory requirements where applicable and the consequences of failing Stage I.]</p>	
<p>(Alternative (h) for Marking Scheme)</p> <p>(h) Tenderers should note that tenders will be evaluated in accordance with the marking scheme at Annex [<i>see below</i>]. Tenderers should note ETWB TC(W) 8/2004 which sets out the use of marking scheme for tender evaluation. Tenderers should note that Government is not bound to accept the tender with the highest overall mark or any</p>	<p>To be used for tender evaluation using marking scheme (Taken from ETWB TC(W) 8/2004 on Tender Evaluation of works contracts).</p>

Clause	Remarks/Guidelines
<p>tender and may cancel the tender exercise on public interest ground. In considering the acceptance of a tender, the Government will take account of all relevant circumstances including the following:-</p> <ul style="list-style-type: none"> (i) The overall mark; (ii) The effect of incident of payments by discounting future payments to obtain the present values if the tendered prices/overall marks are very close (<i>only for tenders with a tender price</i>); (iii) The effect of exceptionally high or low priced items; and (iv) The tenderer's capability (financially, commercially and technically) in undertaking the contract. For the avoidance of doubt, matters such as bankruptcy, false declaration, lack of integrity, and acts of dishonesty, the latest available information and reports reflecting serious shortfall in performance and the latest available information and reports relating to serious safety or environmental incident may be taken into account in determining whether a tenderer is fully capable of undertaking the contract. <p>Tenderers are required to make a technical submission in accordance with Clause 4 of the General Conditions of Tender, which will be taken into account in the tender evaluation. The submissions on technical resources and technical proposals shall form part of the Contract. The tender price submitted in the Tender is deemed to be inclusive of the execution of the Works in accordance with the submissions on technical resources and technical proposals. Tenderers</p>	

Clause	Remarks/Guidelines
<p>shall ensure that it is legally and physically possible to execute the Works in accordance with the submitted technical proposals. Should the Contractor for any reason be unable to adhere to the submissions on technical resources and technical proposals, any cost savings to the Contractor arising therefrom shall be determined by the **Engineer/Architect and deducted from the Contract Sum. For the avoidance of doubt, the Contractor shall not be entitled to any additional payment or extension of time for completion for the execution of the Works in a manner which differs from the technical submission on technical resources and technical proposals. Tenderers' attention is drawn to Special Conditions of Contract Clause [].</p> <p>Annex []</p> <p>MARKING SCHEME IN TENDER EVALUATION</p> <p><i>[Disclose the full marking scheme including Stage I Screening where applicable. Disclose the weighting of each attribute in the technical evaluation, the marking standard, the assessment criteria and the formula in determining the overall mark. The information provided should be similar to those shown in paragraph 13 of Appendix C in ETWB TC(W) 8/2004, as well as any additional qualification requirements on tenderers as part of the Stage I Screening and/or any criteria of assessment specific to the needs of the contract. The consequences of failing Stage I Screening should be clearly stated.]</i></p>	
(i) Tenders will be opened by the tender opening	Procedures for opening tenders

Clause	Remarks/Guidelines
<p>team of the (name of tender board) at 12 noon on the date set for the close of tender or, if this has been extended, the extended date at (address).</p>	<p>Ref: WBTC No. 22/98</p>
<p>(j) This tender is covered by the Agreement on Government Procurement of the World Trade Organization (WTO GPA) and the provisions of the WTO GPA will apply to this tender. Tenderers are requested to note that a Review Body on Bid Challenges (under WTO GPA) (“the Review Body”) has been set up by the Government to deal with challenges made against alleged breaches of the WTO GPA and the relevant procedures for handling bid challenges are set out in the Rules of Operation of the Review Body (“the Rules”), which are available for inspection at the Secretariat of the Review Body located at the Trade and Industry Department or which may be sent to the interested parties upon request. In the event that a tenderer believes that a breach of the WTO GPA had occurred, the tenderer may, within 10 working days after he/she knew or reasonably should have known the basis of the challenge, lodge a challenge to the Review Body on the alleged breaches of the WTO GPA. Nevertheless, the tenderer is encouraged to seek resolution of its complaint in consultation with the procuring department before lodging a complaint to the Review Body. In such instances, the procuring department shall accord impartial and timely consideration to any such complaint, in a manner that is not prejudicial to obtaining corrective measures through the Review Body.</p>	<p>Advice to tenderers of the bid challenge system under the WTO GPA (see SPR Appendix III(E)1). Only needed for tenders governed by WTO GPA.</p>

Clause	Remarks/Guidelines
<p>Tenderers are also to note that the Review Body may receive and consider a late challenge but a challenge shall not be considered if it is filed later than 30 days after the basis of the challenge is known or reasonably should have been known.</p>	
<p>(k) Tenderers should note that tenders are invited from suppliers in both the private and public sectors including department(s) of the Government of the Hong Kong Special Administrative Region whose services are funded under trading funds established pursuant to the Trading Funds Ordinance, Cap. 430 (“hereafter referred to as the relevant trading fund department”).</p> <p>All tenders will be evaluated on a fair basis. Every effort has been and will be made by the Government to ensure that the relevant trading fund department would not undertake both the role of consultant and contractor in this tender exercise and where appropriate, independent consultant (who may be outside or within the Government) has been and will be engaged for the preparation of the tender documents, assessment of tenders and subsequent tender supervision.</p> <p>The Electrical and Mechanical Services Trading Fund may submit a tender for this contract. A code of conduct for staff of the Electrical and Mechanical Services Department seconded to other department(s) is also in place for the staff to observe to avoid conflict of interest and is available for inspection by tenderers.</p>	<p>Advice to tenderers about assessment of EMSTF’s (Electrical and Mechanical Services Trading Fund) offer (see SPR Appendix III(E)2, FC 5/2001 & WB TC 25/2001).</p>

Clause	Remarks/Guidelines
<p>(l) Tenderers are advised that if, by the time a tender recommendation is made, the Government has decided not to proceed with the work contained within any Section Subject to Excision, then the tender price for that/those Section(s) shall be discarded and the net tender value shall be taken for the purposes of tender evaluation. Section(s) Subject to Excision is/are identified in <i>(state the relevant provisions here)</i></p>	<p>Advice to tenderers that if by the time a tender recommendation is made, the Government has decided not to proceed with the work contained within the Section(s) Subject to Excision, then the tender price for such section(s) shall be discarded and the net tender value shall be taken for the purposes of tender evaluation.</p> <p>Ref: WBTC No. 5/2000.</p>
<p>(m) Tenderers shall note that part of the Works will take place in the vicinity of the Kowloon-Canton Railway (Hong Kong) section and that the Contractor shall be required to complete and return to the Kowloon-Canton Railway Corporation an indemnity form and a letter of undertaking in accordance with Clause <i>(state clause number here)</i> of the Particular Specification before being permitted to enter the railway zone.</p>	<p>Advice to tenderers about the requirements to complete the Kowloon-Canton Railway Corporation's "Indemnity Form" and "Letter of Undertaking" for works within or adjacent to the Kowloon-Canton Railway (Hong Kong) section boundary.</p> <p>Ref: WBTC No. 30/2001.</p>
<p>(n) Tenderers may submit tenders in traditional hard copy format or partly in electronic format in accordance with Clause 4 of the General Conditions of Tender. All tenders, whether in hard copy format or partly in electronic format, will be evaluated on an equal basis.</p>	<p>Advice to tenderers about electronic submission of tender returns in removable media.</p> <p>Ref: ETWB TC(W) No. 39/2002.</p>
<p>(o) Tenderers should note the Special Conditions of Contract and the Particular Specification on "Site Cleanliness and Tidiness – Daily Cleaning and Weekly Tidying Up of the Site". Separate items are stipulated in the *Bills of Quantities/Schedule of Rates for the cleaning and tidying up work of the Site, including Public Cleaning Areas which are solely required for cleaning by the Contractor and have to be</p>	<p>Advice to tenderers about enhanced site cleanliness and tidiness</p> <p>Ref: WBTC No. 6/2002 & ETWB TC(W) No. 6/2002A.</p> <p>* delete as inappropriate.</p>

Clause	Remarks/Guidelines
<p>maintained open to the general public throughout the construction period. The Particular Specification shall be strictly enforced by the *Architect/Engineer/Maintenance Surveyor.</p> <p>Failure to perform satisfactorily on Daily Cleaning and Weekly Tidying as specified in the contract with non-payment for two consecutive Cleaning Days or Cleaning Week Days, OR more than two Cleaning Days or Cleaning Week Days in any rolling five days which may comprise Cleaning Days and Cleaning Week Days can result in a verbal warning. If performance is not improved, a written warning will be issued and further non-performance may be reflected in the quarterly report on the contractor's performance.</p>	
<p>(p) Tenderers should note that this Contract includes the Particular Specification on Site Safety Cycle and the provision of welfare facilities for workers at construction sites. Tenderers should also note the Particular Preamble for the provision of hard-paved area for the Pre-work Activities of Site Safety Cycle and the provision of welfare facilities for workers under the Preliminary Item "Temporary Accommodation for the Contractor" [or "Contractor's Site Accommodation in the Preliminaries" as appropriate].</p>	<p>Advice to tenderers about requirements for the implementation of Site Safety Cycle and the provisions of welfare facilities for worker.</p> <p>Ref: WBTC No. 30/2002.</p>
<p>(q) Tenderers should note General Conditions of Tender GCT [] and Special Conditions of Contract Clause [] on the requirement of submission of the Sub-contractor Management Plan.</p>	<p>Advice to tenderers about requirements for submission of Sub-contractor Management Plan (SMP)</p> <p>Ref: ETWB TC(W) No. 47/2002.</p>

Clause	Remarks/Guidelines
<p>(r) (a) The tenderer's attention is drawn to the constraints on the *Engineer's/*Architect's/Maintenance Surveyor's powers set out in the Appendix to the Form of Tender.</p>	<p>Standard constraints on the power of the *Engineer/*Architect and the Surveyor Additional Note for Tenderer [Guidance Note : For use in capital works contracts.</p> <p>Ref: WBTC Nos. 28/99, 19/2000 and 56/2002A</p>
<p>(b) In addition to the above constraints, the *Engineer/*Architect or, as the case may be, the Surveyor is also required under the terms of his appointment by the Employer to:</p> <ul style="list-style-type: none"> i) refer the details of every variation to the Works, including the reasons for the variation and its estimated value, to the Employer for information as soon as the variation is ordered; ii) refer the details of the evaluation to the Employer for information as soon as the value of a variation to the Works has been determined; iii) report to the Employer all claims for additional payment made by the Contractor and, except for those solely in respect of agreement of rates, refer the principles underlying his assessment of each claim, to enable the Employer to provide his view of the matter before the *Engineer/#Surveyor reaches a decision; and iv) report to the Employer all delays to the progress of the Works and, except for those delays solely in respect of inclement weather conditions or the hoisting of storm signals, refer his 	

Clause	Remarks/Guidelines
<p>assessment of grant of extension of time for completion, if any, to enable the Employer to provide his view of the matter before the *Engineer/*Architect reaches a decision.</p> <p>v)</p>	<p>[add any constraints as necessary and specified in the consultancy agreements other than the above.]</p>
<p>(s) Tenderers should note that tenders are invited from suppliers in both the private and public sectors including department(s) of the Government of the Hong Kong Special Administrative Region whose services are funded under trading funds established pursuant to the Trading Funds Ordinance, Cap. 430 (“hereafter referred to as the relevant trading fund department”)</p> <p>The Employer will award the Contract to the tenderer who has been determined to be fully capable of undertaking the contract and whose tender, whether for domestic products or services, or products or services of others, is either the lowest tender or the tender which in terms of the specific evaluation criteria set forth in this tender documentation is determined to be the most advantageous unless it is in the public interest not to do so. In the situation where the tenderer selected in accordance with the foregoing criteria is the relevant trading fund department, the Employer may make a decision in the public interest not to issue a contract and instead to enter into a service level agreement with the relevant trading fund department.</p>	<p>This is to be used if Trading Fund is invited to tender.</p>
<p>(t) Where the tenderer is involved in any of the inappropriate conducts as described in</p>	<p>Regulating Actions for Withdrawal of Tenders within the Tender Validity Period.</p>

Clause	Remarks/Guidelines
<p>paragraph 5.13.1 of the Contractor Management Handbook – Revision A and which gives rise to reasonable suspicions as to his capability or integrity, regulating action may be taken against the tenderer in accordance with the terms thereof.</p>	<p>This clause is extracted from Appendix 5G of the Contractor Management Handbook – Revision A)</p>
<p>(u) Tenderers should note that the Land (Miscellaneous Provisions) (Amendment) Ordinance 2003 came into operation on 1 April 2004.</p> <p>Tenderers should note the Special Conditions of Contract Clause SCC *[and the Particular Specification Clause **] on permits for excavation works under the Lands (Miscellaneous Provisions) Ordinance, Cap. 28.</p>	<p>Land (Miscellaneous Provisions) (Amendment) Ordinance 2003.</p> <p>Refer to ETWB’s memo dated 29 and 31 of October 2003 ref: ETWB(W) 249/38/02 [TC 13/2001] for detailed application of this clause.</p> <p>* Insert clause no.</p> <p>** Words in square brackets inserted where applicable.</p>
<p>(v) Tenderers’ attention is drawn to Special Conditions of Contract Clause xx on Hired and Hire-purchase Constructional Plant. [It is anticipated that proof of ownership and where applicable written undertaking from the plant owner may be required for the following types of Constructional Plant:</p> <p style="text-align: center;"><i>(provide list here)</i></p> <p>Tenderers shall note that the above list is not exhaustive and is given for the tenderers’ reference only. The above list shall not form part of the Contract. The Engineer/Architect/ Maintenance Surveyor* may, in accordance with Special Condition of Contract Clause xx, require proof of ownership and where applicable written undertaking from the plant owner for any item of Constructional Plant which may or may not be of a type set out in the above list.]#</p>	<p>Proof of plant ownership Ref. ETWB TC(W) No. 9/2004.</p> <p>* Delete as appropriate.</p> <p># Delete the words in square brackets if it is not considered practicable to produce a list of Constructional Plant for inclusion in the tender documents.</p> <p>xx Insert clause number.</p>

Clause	Remarks/Guidelines
<p>(w) Tenderers' attention is drawn to the Special Condition of Contract [x] requiring the engagement of sub-contractors who are registered under the respective trades available in the Primary Register of the Voluntary Sub-contractor Registration Scheme.</p>	<p>Voluntary Sub-contractor Scheme Register Ref. ETWB TC(W) No. 13/2004. [x] Insert clause number.</p>
<p>(x) A programme for the propose of conducting a net present value analysis in accordance with Note (h) of these Notes to Tenderers is included in the tender documents [<i>state appropriate location</i>]. This programme is for tender assessment use only and will not form part of the Contract.</p>	<p>Net present value analysis. This is to be included for tenders with a tender price in conjunction with NTT (h)(ii). Note: The programme should include some guidance notes on the allocation of preliminary costs and the contingencies throughout the contract period to be used in NPV analysis.</p>

The following NTT clauses have either been transferred elsewhere or deleted as indicated:

Tender closing date	DELETED
Inspect drawings	DELETED (Already in GCT)
Probationary tenderers	Moved to GCT
Holding company and subsidiaries	DELETED (Already in GCT)
Conviction (Immigration Ordinance)	DELETED (Already in GCT)
Conviction (safety related ordinances)	DELETED (Now included in SCT)
Diesel hammers	DELETED (outdated)
Convictions (Employment Ordinance)	DELETED (Already in GCT)
PII	DELETED (outdated)
Marking scheme	This is now in Alternative (h)
Formula approach	This is now in (h)

Notes of Tenderers

Amendments made since 18.8.2004

Date of amendment	Amendments made :
19.10.2004	Contents page – amendment sheet added.
19.10.2004	(a) PWTB address changed.
19.10.2004	(n) Clause reference of GCT corrected.