

政府總部
環境運輸及工務局
香港花園道美利大廈



Environment, Transport
and Works Bureau
Government Secretariat
Murray Building, Garden Road,
Hong Kong

Ref. : ETWB(W) 546/70/01
Group : 2, 3, 15

25 May 2004

Environment, Transport and Works Bureau
Technical Circular (Works) No. 10/2004

Tenderer's Eligibility for the Award of Works Contracts

Scope

This Circular promulgates the revised rules for determining a tenderer's eligibility for the award of works contracts in selective tendering.

Effective Date

2. This Circular takes effect on all tenders to be invited on or after 1 June 2004.

Effect on Existing Circular

3. This Circular supercedes WBTC No. 2/99 which is hereby cancelled. This Circular affects WBTC Nos. 22/98, 5/2001, 13/2001, 25/2001 and 25/2002, ETWB TCW Nos. 44/2002, 2/2003, 22/2003 and the relevant Appendices contained in those circulars. Revisions to these affected circulars are being promulgated separately following the promulgation of this Circular. The Contractor Management Handbook paragraphs 2.8.4, 2.8.5, 5.2.2 and Appendix 5B are hereby superceded by this Circular and paragraph 5.7.6 is amended by this circular accordingly.

The Revised Rules

4. In selective tendering, a tender will not be considered unless the tenderer has met certain qualification requirements, e.g. is on a particular List of Approved Contractors and not being suspended from tendering. In the past, tenderers were given a further 40 days from the date set for the close of tender to obtain the necessary qualifications. This 40-day rule is now no longer applicable.

5. If a tenderer does not meet the qualification requirement by the date set for the close of tender, or if this has been extended, the extended date, his tender will not be considered.

6. Appended herewith is a set of Conditions of Tender for use in tender documents for tenders to be invited after the effective date of this Circular.

(C S Wai)
Deputy Secretary for the Environment,
Transport and Works (Works) 2

General Conditions of Tender

GCT(X) - Contractors under suspension

- (1) If the tenderer or, if the tenderer is a partnership or an unincorporated or incorporated joint venture, any participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture is under suspension from tendering for **any of/*all* of the following category [or categories] of public works, his tender will not be considered unless the suspension is lifted by the Works Department or the Environment, Transport and Works Bureau by the date set for the close of tender, or if this has been extended, the extended date.

[list the category or categories of public works]

- (2) If the tenderer or, if the tenderer is a partnership or an unincorporated or incorporated joint venture, any participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture is under voluntary suspension from tendering for **any of/*all* of the following category [or categories] of public works at the date of tender invitation but subsequently revokes the voluntary suspension without agreement in writing from either the Works Department or the Environment, Transport and Works Bureau, its tender will not be considered.

[list the category or categories of public works]

* Delete as appropriate

GCT(XX) - Admission, Promotion and Confirmation to the List of Approved Contractors

- (1) A tender submitted by a contractor who is on probation in the category(ies) of work specified in the tender invitation and who already holds the maximum number of contracts or is otherwise ineligible to tender according to the latest version of the Contractor Management Handbook, will not be considered unless he has become eligible for the award of a further contract by the date set for the close of tender, or if this has been extended, the extended date.

- (2) 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 in respect of a contract in the relevant group or status and to submit a tender. However, such a tender will not be considered unless his application for admission or promotion or confirmation is approved by the date set for the close of tender, or if this has been extended, the extended date.

GCT(XXX) - Statement Of Convictions Under The Employment Ordinance (Cap. 57)

- (1) A tender will not be considered if, during the 12-month period prior to the date set for the close of tender, or if this has been extended, the extended date, the tenderer has had three or more convictions in respect of separate incidents under the Employment Ordinance (Cap. 57) which individually carry maximum fines corresponding to Level 5 or higher within the meaning of Schedule 8 to the Criminal Procedure Ordinance (Cap. 221) on any site under the tenderer's control, whether or not he has been formally suspended as a result of such convictions. If the tenderer is a partnership or an unincorporated or incorporated joint venture, the tender will not be considered if any participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture has had three or more such convictions during the 12-month period, whether or not that participant or shareholder has been formally suspended as a result of such convictions.
- (2) The tenderer shall submit with the tender, either a statement of all convictions under the Employment Ordinance (Cap. 57) for all sites under his control (whether they are sites under public or private contracts) during the 12-month* period prior to the date set for the close of tender, or if this has been extended, the extended date, the details of which shall include the legislation violated, dates of offences, dates of convictions and the associated fine imposed by the court, site addresses, contract numbers and contract titles, or a statement of "no conviction". The statement shall be certified by a person authorized to sign Government contracts on the tenderer's behalf. #[, or in case of EMSTF's tender, a person authorized to sign the Service Level Agreement.]

- (3) If the tenderer is a partnership or an unincorporated or incorporated joint venture, each participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture shall submit such a statement separately.
- (4) Where the tenderer (including shareholders and participants in joint ventures) is a company it shall disclose any change of name made during the period of twelve months* prior to the date set for the close of tender, or if this has been extended, the extended date, and shall include in its statement of all convictions any conviction recorded under any previous name.
- #(5) For tenders submitted by EMSTF, the letters of “non-compliance” issued by the relevant regulatory authorities shall also be treated as conviction records.

For use in tenders which EMSTF is eligible to bid

* [or other period specified by the Architect/Engineer/ Maintenance Surveyor where appropriate to cope with the assessment period for tender evaluation using the Marking Scheme.]