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Works Bureau Technical Circular No. 9/2002

**Technical Audits on
Consultancy Agreements**

Background

The need to conduct technical audits on consultancy agreements has been endorsed by the Works Group Directors' Meeting. It has also been agreed that the technical audits should be carried out by each individual department. The auditing system has been running smoothly and some refinements are introduced.

Scope

2. This Circular promulgates that technical audits on consultancy agreements should be carried out by all works departments in accordance with the guidelines in the "Technical Audit Manual for Consultancy Agreements" at Appendix A. This Circular also sets out the follow-up actions to be taken by works departments in response to the audit findings and the reporting system of the follow-up actions by works departments.

Effective Date

3. This Circular takes immediate effect.

Effect on Existing Circular

4. This Circular supersedes WBTC No. 22/99 with immediate effect.

Reporting of Audit Findings

5. The audit reports should be submitted to the Head or Deputy Head of Department, or equivalent, with copies to the relevant Division/Unit heads and the Works Bureau as soon as available. There is no need to wait for the closing of the non-compliances cases. Audit Reports may also be copied to the Chairman of the Architectural and Associated Consultants Selection Board or the Engineering and Associated Consultants Selection Board, if considered necessary. The Head or Deputy Head of Department, or equivalent, should determine the follow-up actions required and ensure their proper implementations.

Review of Audit Findings and Implementation of Follow-up Actions

6. Works departments should critically review the audit findings and take follow-up actions with a view to rectifying the non-compliance and avoiding recurrence. If repeated non-compliances are identified, consideration should be given as to whether they are due to insufficient or unclear dissemination of requirements. Should this be the case, appropriate measures should be taken to remedy the shortcoming, e.g. issuing departmental instructions or circulars to clarify the requirements.
7. For cases where defaulting parties are clearly identified, works departments should seriously consider establishing sanction against the defaulting parties, e.g. reflecting the cases in the consultants' performance reports, or taking appropriate disciplinary actions against the staff, as the case may be. Appropriate sanctions can serve as deterrence to future foul play.
8. When audit findings identify areas for improvement necessitating changes of existing policies, such findings should be brought to the attention of Works Bureau by an officer at D2 level or above. If the areas for improvement are of common interest to other departments, the initiating department should keep other departments informed of the proposed improvements.

Reporting on Review of Audit Findings and Implementation of Follow-up Actions

9. Works departments should submit reports to the Works Bureau annually on the audits carried out in each calendar year, reaching the Works Bureau before the first working day in March of the following calendar year. The reports should include, inter alia, a brief summary of the audits carried out, common non-compliance identified and also the follow-up actions taken. If the follow-up actions have not yet been completed at the time of reporting, their programme and progress should also be provided. For cases where defaulting parties are clearly identified, the sanctions taken should also be included in the report. If no sanction has been taken for such cases, works departments should state in the report the reasons why not.

(W S Chan)

Deputy Secretary (Works Policy)

Technical Audit Manual
for
Consultancy Agreements

Subsumed

Works Bureau
March 2002

Technical Audit

1. For consultancy agreements, a technical audit essentially examines whether laid down procedures and requirements are observed, and ascertains the need for corrective and preventive actions. This is a compliance audit. The findings should be reviewed regularly and appropriate follow-up actions should be taken.

Objectives

2. The following objectives should be borne in mind when carrying out technical audits on consultancy agreements:
 - (a) to check whether laid down procedures and requirements are strictly complied with, and if not, the reasons for non-compliance. If any laid down procedures are found out-dated or no longer practicable during the course of the audit, such procedures should be brought to the attention of the respective consultants selection board; and
 - (b) where laid down procedures and requirements are not followed by project officers, to recommend measures which may be necessary to correct the irregularities and prevent future repetition.

Auditing Officers

3. The auditing officers should be assigned by the Head or Deputy Head of Department, or equivalent. They should be at senior professional rank.

Consultancy Agreements to be Audited

4. The auditing officers shall, unless otherwise directed by the Head or Deputy Head of Department, or equivalent, determine which consultancy agreements are to be audited based on the following criteria:
 - (a) consultancy agreements should be chosen in proportion to the number of agreements currently undertaken by each Division/Unit as far as

practicable;

- (b) consultancy agreements of which the nature of service is new to government or very complex;
- (c) consultancy agreements for strategic projects of significance; and
- (d) consultancy agreements under which the consultants have been given unsatisfactory performance reports. Priority should be given to the consultancies having the worst performance report.

Programme of Audits

- 5. The auditing officers should prepare regular Consultancy Agreement Audit Activity Reports to the Head or Deputy Head of Department, or equivalent, copied to Works Bureau. These reports should be prepared quarterly or half-yearly depending on the number of audits carried out and planned. They should show the audits carried out against the original programme during the last reporting period and the programme for the next.

Planning and Preparation for Audits

- 6. Before conducting the audit, the auditing officer shall:
 - (a) review the last audit report, if any, on the consultancy agreement, and note the areas of non-compliance and any follow up actions required to be taken;
 - (b) define the scope of the audit;
 - (c) prepare a time schedule indicating the dates on which the audit will take place and the length of the audit. Preliminary contacts with the project officers concerned may be helpful in fixing mutually convenient dates; and
 - (d) notify in writing the project officer of the consultancy agreement to be audited. Such notification shall include the time schedule of the audit,

the name of the auditing officer and the relevant documents (e.g. project files, agreement documents, payment record, programme, reports etc.) required to be made available for pre-audit and post-audit reading by the auditing officer.

Opening Meeting

7. The audit shall start with an opening meeting, which serves as an introduction between the auditing officer and the project officer of the consultancy agreement to be audited.
8. At the opening meeting, the auditing officer shall:
 - (a) introduce himself and other auditing officers, if any;
 - (b) briefly describe the scope and time schedule of the audit, the relevant standards to be used as the basis of the audit, the meaning of a non-compliance and the method of reporting;
 - (c) ascertain which project officer is responsible for which parts/aspects of the consultancy agreement to be audited;
 - (d) explain that before the preparation of the audit report, the project officer will be informed at the Closing Meeting of any major non-compliance found during the audit, and will be asked to give their views and/or explanations for such non-compliance; and
 - (e) invite and answer any questions the project officers may have about the audit.

Scope of Audits

9. The Architectural and Associated Consultants Selection Board (AACSB) and the Engineering and Associated Consultants Selection Board (EACSB) are appointed by the Secretary for the Treasury for the selection and appointment of the relevant consultants. The procedures are set out in the relevant Handbooks. Auditing officers should not attempt to duplicate the checks and controls already exercised by the two Boards. Effort should be concentrated on the items which are normally not included in the submissions to the Boards and which will not be checked by the Boards. For consultancy agreements which are not necessary to be submitted to the Boards for approval, the audits should cover those items which correspond to the submission to the Boards. It should be noted that the scope of audit would heavily depend on the Brief of the consultancy agreement, which varies from one agreement to another. Auditing officers should exercise his professional judgement to determine the scope of audit on a case-by-case basis. Some common items are shown in the following paragraphs but they should not be regarded as an exhaustive list.

The Brief

10. The Brief shall define clearly the scope, nature and timing of the services to be provided by the consultants, and the responsibilities to be assumed. It shall describe exactly what is to be achieved and what the output is. Other requirements, constraints, assumptions and methodology must be clearly defined.
11. The Brief shall be prepared in consultation with all interested offices and consistent with the requirements of the project as approved by the Public Works Sub-Committee or other authority. For EACSB consultancy, it shall be finalised only after the pre-submission meeting with the shortlisted consultants are held.

Execution of Consultancy Agreement

12. The persons nominated to sign the agreement shall have the authority to do so. The legal status of the consultants should be clarified. Reference should be made to the Stores and Procurement Regulations 505 regarding the execution of the agreement.

Delegation of Powers

13. The powers of the Director's Representative (DR) are defined in the consultancy agreement. It is expected that some of these powers will be delegated to the project officers responsible for the day-to-day management of the consultants. Such delegation should be made known to the consultants.

Programme

14. The consultant shall submit a draft programme for DR's approval in accordance with the General Conditions of Employment (GCE). This Programme shall form the basis for controlling and monitoring the progress, and shall not be revised without the approval of the DR.

Progress Report

15. The consultant should generally be required to submit progress reports at regular intervals in a format to be agreed by the DR. This report should indicate the progress of the reporting period against the agreed Programme.

Payment of Fees

16. Fees shall be paid to the consultants in accordance with the Schedules of Fees and within the time frame stated in the GCE. The payment may include some or all of the following items, and should be assessed and made in accordance with the terms of the consultancy agreement.

- (a) Interim payment
- (b) Final payment
- (c) Adjustment in lump sum fees
- (d) Expenses
- (e) Payment for additional services
- (f) Reduction for lump sum fees
- (g) Payment for delays
- (h) Fees on time basis

Ordering and Execution of Additional Service

17. There are provisions in the GCE for the ordering of additional services for which the consultants are entitled to additional payment. The ordering of such service should be properly made by an officer with the necessary authority.

Modification to Consultancy Agreement

18. Modifications to the terms of the consultancy agreements may be necessitated by changes in circumstances. Such modifications shall be covered by supplemental agreements. Legal Advisory Unit/Works Bureau should be consulted, if necessary, and the relevant approval should be sought. It should be noted that such modifications shall be consistent with the scope of the project as approved and within the limits set out in the Stores and Procurement Regulations.

Conclusion of Consultancy Agreement

19. When the consultants have substantially completed the duties, they should be so informed together with a list of outstanding items and any other ongoing responsibilities. The account should be finalised within a reasonable period.
20. The following are common outstanding items encountered during the

completion of a consultancy agreement:

- (a) Return of documents provided by the Employer
- (b) Settlement of contractual claims
- (c) Production of as-built drawings
- (d) Production of maintenance manuals
- (e) Submission of design calculations
- (f) Submission of design certificates
- (g) Record of handing over of works.

Conducting Audits

- 21. It is usually necessary to carry out file perusals and staff interviews during the course of the audit. These works shall be so arranged as to minimise disruption to the project officers.
- 22. Personal checklists and notes are useful tools to auditing officers. However, care must be taken to ensure that they do not restrict enquiry. Auditing officers shall always be prepared to follow up other lines of enquiry which could lead to information discovery.
- 23. All checklists and notes together with other information found during the audit should be properly filed for future reference when necessary.
- 24. The following are some useful auditing skills:
 - (a) let project officers talk freely. Unless the talk diverts from the topic, auditing officers should avoid interrupting as more information may be gathered from the talk;
 - (b) do not argue with the project officers or criticise their work. This will only cause ill feelings and could be obstructive to later auditing work;
 - (c) do not initiate to tell project officers how to do their work as this may

cause ill feeling. However, auditing officers, when requested by the project officers, should advise the correct procedures to be followed when carrying out their duties;

- (d) be polite in delivering questions. A rude or suspicious attitude will not generate co-operation from project officers;
- (e) avoid asking leading questions (i.e. questions in the form of a statement and will only require a simple answer of 'yes' or 'no'). The project officer who answers such questions may give answers he thinks will best protect him, whether or not they are true answers. Instead, auditing officers should ask open questions wherever possible. Open questions normally being with the words: "where; what; when; how; why; who; please show me";
- (f) distinguish between facts and opinion in statements expressed or answers provided by project officers;
- (g) be cautious of inefficient use of time by following false trails or attention on the 'minor and unimportant many';
- (h) carefully monitor progress of the audit so that the entire scope of the audit is covered as scheduled. Unless new issues with significant implications or non-compliance are found, departure from the original schedule should be avoided; and
- (i) try to programme interviews to fit the project officers' working hours.

Closing Meeting

- 25. At the end of the audit but prior to the preparation of the audit report, the auditing officer shall arrange a Closing Meeting with the project officers. The Meeting should involve the same people who attended the Opening Meeting.
- 26. Before holding the Closing Meeting, the auditing officer should carefully review the findings of the audit to ensure that the entire scope of the audit is

covered and that all non-compliance found are based on sound and objective evidence.

27. At the Closing Meeting, the auditing officer shall:

- (a) recapitulate the scope of the audit, the relevant standards used as the basis of the audit and the meaning of a non-compliance;
- (b) state that although many things were found to be in compliance with the standards, only non-compliance and findings of significance will be reported;
- (c) give a disclaimer that it is possible that not all non-compliance is identified during the audit;
- (d) describe the major non-compliance and/or other findings of special interest, and ask project officers to give their views and/or explanations on such non-compliance and/or findings;
- (e) state that all audit findings will be submitted to the Head or Deputy Head of Department, or equivalent, in the form of an audit report; and that appropriate recommendations will be included in the report; and
- (f) invite and answer any questions the project officers may have.

Audit Report

28. After the Closing Meeting, the auditing officer shall prepare and submit the audit report using the standard pro-forma contents at Annex as soon as practicable to the Head or Deputy Head of Department, or equivalent, with copies to Works Bureau. Audit reports may also be copied to the Chairman of the AACSB or EACSB, if considered necessary.

29. In preparing the audit report, care should be taken to avoid minor non-compliance being reported out of proportion.

Follow Up Actions

30. Upon perusal of the audit report, the Head or Deputy Head of Department, or equivalent, shall determine the follow up actions required (including corrective measures to procedural or other non-compliance) and direct the auditing officer or project officers accordingly.

Subsumed

Pro-forma Contents of Technical Audit Reports on Consultancies

Summary

Brief Description of the Consultancy Assignment

Date of Audits

Documents Perused

Audit Findings

- (list various headings in the scope of the audit)

Recommendations

Appendices