



Development Bureau

THE GUIDELINES

**The Guidelines for the Implementation
of the New Policy on Selection,
Appointment and Management of
Consultants under the purview of the
Engineering and Associated
Consultants Selection Board**

Revision No. ~~3~~ (May 2023) (July 2026)

ISSUE OF THE GUIDELINES AND REVISIONS

The Guidelines are posted on the DEVB's website under the heading "Standard Consultancy Document" in the "Publications" section. The version of the Guidelines on the internet is always of the latest version and should be read together with relevant Development Bureau Technical Circulars (Works) and EACSB Circulars.

List of Major Updates in Revision No. ~~3 (May 2023)~~ 4 (July 2026)

Section No.	Details of Amendments
A. Implementation programme	
App. 1.1	To include the following updated schedule: (i) Introduction of assessment aspect <u>Adopt new admission criteria in relation to integrity management for new/renewal applications.</u> (ii) Introduce additional requirements for – (i) uplifting regulating action imposed on consultants' professional conduct as promulgated under DEVB's memo dated 25 Jun 2021, who have been suspended from ➤ Implementation of enhanced bidding mechanism as promulgated under DEVB's memo dated 28 Mar 2022 and 30 Sep 2022 <u>due to integrity-related misconduct.</u> (ii) Excluding the manpower input under concurrent tenders in overloading checking as promulgated under DEVB's memo dated 7 Feb 2023. (iii) Accepting full time local professionals recognized by local professional bodies only as promulgated under DEVB's memo dated 29 Sep 2022. ➤ Adopting the updated admission criteria for professional in environmental studies (P6) <u>application for re-admission to the List for consultants who have been removed from the List due to integrity-related misconduct.</u>
B. List management	
Section 2.2.3, App 2.1, <u>2.2,</u>	To update the <u>introduce new</u> admission criteria <u>related to integrity management for new/renewal applications:</u>

Section No.	Details of Amendments
<u>2.5 and 2.6</u>	(i) <u>Integrity Policy;</u> (ii) <u>Integrity training requirement for professional in environmental studies (P6)-top management and listed staff members (for renewal applications only)</u>
C. Bidding restrictions	
<u>2.3.1</u>	<u>To include the updated guidelines on consultancy packaging as promulgated under DEVB's memo dated 7 Jul 2022.</u>
<u>Section 2.2.4.3, 4.3.1 and App. 2.46</u>	(i) <u>To update the tendering limits as promulgated under DEVB's memo dated 13 Mar 2023. To impose additional requirement for –</u> ➤ <u>uplifting regulating action imposed on consultants who have been suspended from bidding due to integrity-related misconduct.</u> ➤ <u>application for re-admission to the List for consultants who have been removed from the List due to integrity-related misconduct.</u>
<u>Section 2.3.12.4</u>	To exempt<u>provide elaborations on:</u> (i) <u>processing time for application for inclusion to the engagement List, special circumstances on rejection of an individual as a sub-consultant from the bidding restrictions.</u> (i)(ii) <u>application which has met all admission criteria.</u>
<u>3.1.1.1 and App. 3.1 Section 2.2.5</u>	<u>To clarify<u>streamline the processing of consultants' application of cross-for upgrading to a higher group-Group bidding under one-stage selection process and to include the updated guidelines on same Service Category during the sounding out exercise as promulgated under DEVB's memo dated 28 Dec 2021. Group Change Debarment Period</u></u>
<u>Section 2.2.4, 2.2.6 and 2.2.11</u>	<u>To update the requirement of conducting Office Audit</u>
<u>3 App. 2.1.1.2 (Remarks)</u>	<u>To include the updated guidelines on engaging unlisted consultants as joint venture participants/sub-consultants as promulgated under DEVB's memo dated 21 Oct 2022. To elaborate the principles for assessing the duration and value of an applicant's project experience.</u>

Section No.	Details of Amendments
<u>C. Selection and Appointment Rules for Engineering and Associated Consultancies</u>	
App-3.3 <u>Section 3.2.1, 3.6.3 and Appendix 3.3</u>	To include the relevant amendments <u>Original Section 3.2.2 deleted. Project officers shall refer to the latest template of the standard invitation documents for NEC PSC published on DEVB website, which have been incorporated with the relevant amendments promulgated under the EACSB Handbook Revision No. 16 to suit the latest updates of the Guidelines.</u>
<u>D. Tender Assessment</u>	
3.3 and App 3.4	To include the updated conversion factor as promulgated under DEVB's memo-ref. DEVB(PS)106/43 dated 12 Oct 2022.
3.4 and App 3.2(B)	To include the enhanced bidding mechanism as promulgated under DEVB's memo dated 28 Mar 2022 and 30 Sep 2022.
Appendix 3.6.3, App 3.6, 3.78 and 3.104.1	To exclude the manpower input under concurrent tenders in overloading checking as promulgated under DEVB's memo dated 7 Feb 2023. <u>Remarks added. Project officers shall refer to the latest library of the Standard Additional Conditions of Contract for NEC PSC published on DEVB website, which have been incorporated with the relevant amendments promulgated under the Guidelines.</u>
<u>D. Quarterly Updates of Manpower Input</u>	
App Appendix 3.2 and 3.37	To remove the requirement of submission of the undertakings signed by non fulltime core personnel in the tendering stage. <u>Change in submission deadline of the quarterly update of manpower input from the 5th day to the 9th day of the reporting month to allow sufficient time for consultants' preparation works.</u>
App 3.2, 3.3, 3.6 and 3.7	To clarify the overloading checking involving newly awarded consultancy without manning schedule in its technical proposal.
App 3.3	To clarify that academic route should normally not be included in the marking scheme for key staff in the categories of "Chief Professional" in the disciplines where appropriate professional institutions are commonly in

Section No.	Details of Amendments
	existence.
App 3.3	To include a set of correction rules for the manning schedules.

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1. INTRODUCTION

1.1 Purpose of the Guidelines

The Development Bureau (DEVB) has conducted a review of the policy on the selection, appointment and management of consultants under the purview of the Engineering and Associated Consultants Selection Board (EACSB). The purpose of the Guidelines is to list out in detail the various measures under the new policy as recommended in the review for all user departments to follow.

1.2 Scope of the New Policy

The Guidelines cover the new management regime and administrative rules for the List of Consultants under the purview of EACSB, the amended selection and appointment rules for engineering and associated consultancies, the strengthened monitoring and disciplinary mechanism and the improved coordination among Bureaux and Departments. The timeframe for implementing each of the recommended measures is listed in **Appendix 1.1** to the Guidelines.

As the EACSB policy is constantly under review, the Guidelines will be updated as and when necessary.

1.3 Deviation from the Guidelines

Unless otherwise specified in the Guidelines, prior approval of the DEVB shall be obtained for any deviation from the Guidelines to suit specific needs of individual assignments.

2. MANAGEMENT STRUCTURE AND ADMINISTRATIVE RULES FOR THE LIST OF CONSULTANTS UNDER THE PURVIEW OF EACSB

2.1 Management Regime of EACSB

2.1.1 EACSB Administrative Structure

To assist EACSB, there are two in-house standing committees involved in managing performance of engineering and associated consultants and taking regulating actions against poor performers, namely:

- (a) Inter-Departmental Consultants Review Committee (ICRC); and
- (b) Departmental Consultants Review Committee (DCRC).

2.1.2 Inter-Departmental Consultants Review Committee (ICRC)

An Inter-Departmental Consultants Review Committee has been established to assist EACSB in managing performance of engineering and associated consultants and taking regulating actions against poor performers.

2.1.2.1 Composition of ICRC

The composition of ICRC is as follows:

Chairperson : DWS, DHy, D of DS [on an annual rotational basis]

Secretary : SE/EACSB

Members : All Chairpersons of DCRC of list management departments and DS(W)3, DEVB (or their delegates at D2 rank or above)

2.1.2.2 Terms of Reference of ICRC

The terms of reference of ICRC are:

- (a) To approve recommendations from DCRC for taking regulating action, including suspension from bidding and lifting of any suspension imposed, against consultants receiving two or more consecutive adverse Interim Reports or being assessed as technically incompetent as mentioned in paragraph 21 in Annex I to DEVB TC(W) No. 3/2016;
- (b) To endorse recommendations from DCRC for taking regulating action, other than (a) above and the suspension in accordance with Sections 2.2.6, 2.2.7

and 2.2.11 of the Guidelines, before submission by DCRC to EACSB for approval; and

- (c) To provide guidance on various operational issues relating to management of the List of Consultants of EACSB including revision to admission criteria, grouping structures, tendering limit, etc. overseen by DCRC except processing applications from consultants, e.g. application for inclusion, change of company name, etc.

2.1.2.3 Meeting of ICRC

ICRC meetings shall be arranged if the matter arisen cannot be handled by circulation of documents.

2.1.3 Departmental Consultants Review Committee (DCRC)

User departments procuring consultancy agreements shall set up a DCRC to manage consultants' performance reports. In addition to the management of performance, DCRCs of list management departments are also responsible for all matters related to the management of the List of Consultants of EACSB.

2.1.3.1 Composition of DCRC

The composition of DCRC is as follows:

Chairperson : D2 officer or above level

Secretary : senior professional rank or above

Members : at least a D1 officer and one other officer of at least professional rank

2.1.3.2 Terms of Reference of DCRC

The terms of reference of DCRC are:

- (a) To monitor the performance of consultants providing consultancy services to the department;
- (b) To review, endorse, and amend, if necessary, the consultants' performance reports;
- (c) To make recommendations to the ICRC for taking regulating action, including suspension from bidding and lifting of any suspension imposed,

against consultants who receive two or more consecutive adverse Interim Reports or are assessed as technically incompetent as mentioned in paragraph 21 in Annex I to DEVB TC(W) No. 3/2016, and to keep the relevant log(s) updated of regulating actions in the Consultants' Performance Information System (CNPIS);

- (d) To consider circumstances in Sections 2.2.6, 2.2.7 and 2.2.11 of the Guidelines and to seek the approval of EACSB for imposing suspension and to keep the relevant log(s) updated of regulating actions in the CNPIS;
- (e) To consider circumstances other than (c) and (d) above and obtain endorsement from ICRC before seeking the approval of EACSB for taking regulating actions and to keep the relevant log(s) updated of regulating actions in the CNPIS; and
- (f) To process applications from consultants associated with the administration of the List of Consultants of EACSB, conduct re-grouping exercise under the guidance of ICRC including reviewing tendering limit, etc. prior to biennial renewal exercise, and review admission criteria when required by ICRC.
[For list management departments only]

2.1.4 EACSB Information

Record of consultants in the List of Consultants of EACSB (the List) which contains the names, addresses and other details necessary for admission, renewal, etc. is maintained by the Secretary of EACSB. Other than those restricted information, an up-to-date list of the various Service Categories of consultants is maintained by the Secretary of EACSB (Service Categories) and can be accessed via the internet website of the Civil Engineering and Development Department (<http://www.cedd.gov.hk>);

2.2 Listing and Grouping

EACSB maintains the List for undertaking engineering and associated consultancy services. The rules for administration of the List (the Rules) are set out in this section.

2.2.1 Service Categories

The List comprises the following Service Categories:

<u>Service Category</u>	<u>List Management Department</u>
Civil Infrastructure and Development (CE)	Civil Engineering and Development Department
Drainage and Sewerage (DS)	Drainage Services Department
Electrical and Mechanical (EM)	Electrical and Mechanical Services Department
Environmental (EP)	Environmental Protection Department
Geotechnical and Slope (GE)	Civil Engineering and Development Department
Roads and Associated Structures (HY)	Highways Department
Town Planning (TP)	Planning Department
Traffic and Transport (TT)	Transport Department
Waterworks (WS)	Water Supplies Department

The list management department for a Service Category is the department most closely connected with that particular type of consultancy and is responsible for servicing and monitoring the performance of all consultants within that Service Category. The list management department for a category may not necessarily be the department responsible for procuring/managing a consultancy issued under that particular Service Category.

2.2.2 Grouping

- (a) Service Categories of CE, DS, GE, HY and WS are each divided into 3 Groups of consultants to accord with the size of the firms, while Service Categories of EM, EP, TP and TT are each divided into 2 Groups. Details of grouping and the admission criteria for individual Service Categories are listed at **Appendix 2.1**. Dividing the latter four Service Categories into 3 Groups will be considered when the job opportunities for these four Service Categories become sufficiently large.

- (b) An up-to-date list of the various Service Categories of consultants is maintained by the Secretary of EACSB and can be accessed via the internet website of the Civil Engineering and Development Department (<http://www.cedd.gov.hk>).
- (c) Office audits as stated in Section 2.2.11 of the Guidelines shall be conducted on selected consultants for verifying their submitted returns, i.e. the updated company information, and documents submitted by the consultants for the biennial renewal exercise.
- (d) A consultant may apply for inclusion in more than one Service Category subject to compliance with the corresponding admission criteria.
- (e) A consultant cannot be listed on more than one Group within the same Service Category.
- (f) A consulting firm can be listed on more than one Service Category. Associated companies (subsidiaries, parent/sister companies) of separate legal entities but with overlap of personnel shall be permitted to be included under different but not the same Service Categories. Associated companies of separate legal entities with no overlap of personnel at all ranks/grades shall be permitted to be included under the same Service Category. For the avoidance of doubt, consultants (i.e. consulting firms eligible to be considered for a particular tendering exercise) having linkages to each other (e.g. subsidiaries, parent or sister companies) are not allowed to bid on the same agreement. If a consultant has any associated companies that are already included in the List or making application for inclusion in the List, the consultant shall mention all these associated companies in its admission application and provide declaration to confirm that the requirements stated in this item are met. The existence of a holding-subsidary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap 622). “Sister companies” shall mean all companies which are subsidiaries of or otherwise belonging to the same holding company.

A consultant may apply for direct entry/promotion to any one Group of a Service Category, subject to compliance with the minimum admission criteria for that particular Group.

2.2.3 Criteria for Inclusion in the List

Criteria for inclusion in the List are:

- (a) Number of qualified staff employed, their qualifications and resident status;
- (b) The experience of the consultant;
- (c) The local facilities used by the consultant's local office; ~~and~~
- (d) ISO 9000 certification covering the Service Category(ies) applied; ~~and~~

~~The minimum entry criteria for inclusion in the List are given at Appendix 2.1.~~

(e) Integrity Management

All consultants on the List shall be responsible for the good behaviour of their employees, agents and sub-consultants in relation to any consultancy appointments for public works projects under its control. The consultants shall advise their employees, agents or sub-consultants that they are not allowed to offer or give any advantage or excessive entertainment to any of the Government employees or members of their family, or to solicit or accept any advantage or excessive entertainment from contractors, their employees, agents or subcontractors in relation to the works under any consultancy appointments for public works projects. In connection with this, the admission criteria for inclusion in the List at Appendix 2.1 are updated with the incorporation of new requirements on "Integrity". For consultants already on the List, their eligibility to remain on the List will be checked during the biennial renewal exercise and office audit according to Section 2.2.8.1 and Section 2.2.11 respectively.

2.2.4 Application for Inclusion

A consultant profile shall be submitted by any consultant who wishes to apply for inclusion in the List. The consultant profile form together with all the required documents shall be addressed to the Secretary of EACSB, Civil Engineering and Development Department, 16/F, Civil Engineering and Development Building, 101 Princess Margaret Road, Homantin, Kowloon. The consultant profile form can be downloaded via the internet website of the Civil Engineering and Development Department (<http://www.cedd.gov.hk>).

Upon receipt of an admission application referred by the Secretary of EACSB, DCRC of the appropriate list management department will conduct an investigation, including an office audit according to Section 2.2.11, to check the documents submitted and confirm compliance with the relevant admission criteria for the List as provided in **Appendix 2.1**. ~~The DCRC concerned will make recommendation to EACSB for approval within 2 months from the date of referral to the list management department.~~

~~If the DCRC concerned considers appropriate, office audits would be conducted as part of the investigation to check the documents submitted.~~

Processing Time

The processing of an application for inclusion in the List should normally be completed within 4 months after receiving accounting from the date when the application has been fully substantiated ~~application from by~~ the consultant. ("Processing Time"):

(a) DCRC should normally make a request to the applicant (with a copy to the Secretary of EACSB for information) for supplementary information / clarification, if necessary, upon receiving the application from the Secretary of EACSB. If the consultant is requested to provide supplementary information to substantiate its admission application, the consultant shall provide such information in a timely manner. When there is no need to seek further information or clarification from the applicant, DCRC should notify the Secretary of EACSB accordingly and the Processing Time will count from the date when all necessary information has been submitted to DCRC; or

(b) If there is no need to make any request to the applicant by DCRC for supplementary information / clarification after receiving the application from the Secretary of EACSB, the Processing Time will count from the date when DCRC receives the application from the Secretary of EACSB.

If the consultant fails to provide the information as per request requested without any justifiable reason, its admission application will be processed based on the information available as appropriate. For the avoidance of doubt, EACSB reserves the right to reject any application which has satisfied all admission criteria at Appendix 2.1 if EACSB has doubt on the applicant's capabilities or suitability in undertaking public works projects. The same shall apply in processing any

application made by ~~the~~a consultant under Sections 2.2.5 to 2.2.13 of the Guidelines.

~~A consultant on the List shall be responsible for the good behaviour of its employees, agents and sub-consultants in relation to any consultancy appointments for public works projects under its control. The consultant shall advise its employees, agents or sub-consultants that they are not allowed to offer or give any advantage or excessive entertainment to any of the Government employees or members of their family, or to solicit or accept any advantage or excessive entertainment from the contractors, their employees, agents or subcontractors in relation to the works under any consultancy appointments for public works projects.~~

~~The consultant may be subject to regulating actions as stated in Section 4 of the Guidelines if the consultant, its employees, agents or sub-consultants has/have committed any offence under the Prevention of Bribery Ordinance (Cap. 201) in relation to any consultancy appointments for public works projects unless the misconduct is not within the control of the consultant. In addition, the consultant may be subject to regulating actions for poor integrity such as negligence, misconduct and impropriety as proven in cases where its employees, agents or sub-consultants have solicited, accepted or been given advantage as defined in the Prevention of Bribery Ordinance in relation to any consultancy appointment for public works project unless the misconduct is not within the control of the consultant.~~

Application for inclusion or permission for retention on the List under any Service Category shall mean the consultant unconditionally accepts the Rules and any future amendments or additions thereto. Failure or refusal to observe the Rules may lead to refusal of entry to the List for the Service Category being applied for, or suspension from bidding consultancies under the purview of EACSB or removal from all Service Categories in which the consultant is listed.

2.2.4.1 Application from Consultant under Suspension

~~A~~Subject to the requirement in Section 2.2.4.3, a consultant, who is being suspended from bidding for new agreements under one or more Service Categories, may submit application for inclusion in the List under Service Category(ies) in which it is not yet included. The application will be processed in accordance with the procedure stipulated in Section 2.2.4 of the Guidelines as to whether the consultant will be included in the Service Category(ies) applied. However,

depending on the nature and seriousness of the cause of suspension, the DCRC concerned shall consider whether suspension should also be imposed on the Service Category(ies) being applied for as if the consultant was listed in that Service Category at the time when the suspension was imposed. If affirmative, the consultant will be subject to current suspension even if the application for inclusion is accepted. Otherwise, the consultant will not be subject to current suspension if the application for inclusion is accepted. DCRC concerned shall make recommendation to EACSB for approval.

2.2.4.2 Application from Consultant under Debarment from Re-admission

ASubject to the requirement in Section 2.2.4.3, a consultant, who has been removed and is being debarred from re-admission under one or more Service Categories, may submit application for inclusion in the List under other Service Category(ies) in which it has not been previously included. The application will be processed in accordance with the procedure stipulated in Section 2.2.4 of the Guidelines as to whether the consultant will be included in the Service Category(ies) applied. However, depending on the nature and seriousness of the cause of removal, the DCRC concerned shall consider whether the removal and debarment should also be imposed on the Service Category(ies) being applied as if the consultant was listed in that Service Category at the time when the removal and debarment from re-admission was imposed. If affirmative, the consultant will be debarred from admission and the application for inclusion will be rejected. Otherwise, the application will be processed accordingly. The DCRC concerned shall make recommendation to EACSB for approval.

2.2.4.3 Application from Consultant under Suspension / Removed from the List due to integrity-related misconduct

The consultant may be subject to regulating actions as stated in Section 4 of the Guidelines if the consultant, its employees, agents or sub-consultants has/have committed any offence under the Prevention of Bribery Ordinance (Cap. 201) in relation to any consultancy appointments for public works projects unless the misconduct is not within the control of the consultant. In addition, the consultant may be subject to regulating actions for poor integrity such as negligence, misconduct and impropriety as proven in cases where its employees, agents or sub-consultants have solicited, accepted or been given advantage as defined in the Prevention of Bribery Ordinance in relation to any consultancy appointment for public works project unless the misconduct is not within the control of the consultant.

A consultant who has been suspended from bidding / removed from the List under one or more Service Category(ies) due to integrity-related misconduct shall submit with its application for new Service Category(ies) in which it has not yet been included (see Section 2.2.4.1) or application for re-admission (see Section 2.2.4.2), as the case may be, proof of (i) successful completion of integrity training course, and (ii) satisfactory enhancement(s) of its integrity management system (IMS) which has been set up following the “Guidelines for Setting Up of Integrity Management System” provided in **Appendix 2.6**. The proof for (ii) above shall be endorsed by an independent auditor (proposed by the consultant and accepted by DEVB) following the requirements as set out in **Section C(i) of Appendix 2.6**.

2.2.5 Changes of Group

A consultant may apply for change to another Group within the same Service Category, subject to compliance with the corresponding listingadmission criteria of that Group and any imposition of debarment on change of Group. The applications for change of Group made under the biennial renewal exercise and those not made under this exercise (in-year applications) are processed in accordance with the procedures stipulated in Sections 2.2.8.1 and 2.2.4 of the Guidelines respectively.

The consultant who applies for change to another Group within the same Service Category, whether it is an in-year application or the application made under the biennial renewal exercise, will be debarred from further application for change of Group in the concerned Service Category within 12 months upon approval (the Group Change Debarment Period), subject to Sections 2.2.6 and/or 2.2.7 of the Guidelines. For the avoidance of doubt, a consultant under the Group Change Debarment Period for a particular Service Category is allowed to submit its application for upgrading to a higher Group under the same Service Category as early as **four months before the expiry date** of the Group Change Debarment Period. However, the effective date for the change of Group, if approved, will only be effective upon the expiry of the Group Change Debarment Period the earliest. Consultants shall remain in the respective Groups until the end of the Group Change Debarment Period, except downgrading in accordance with Sections 2.2.6 and/or 2.2.7 of the Guidelines.

To streamline the processing of applications, the consultant whose in-year application for change of Group in a Service Category is still in process at the

commencement of the biennial renewal exercise of a particular year will be exempted from that renewal exercise for the Service Category concerned. For instance, if the Secretary of EACSB informs that the biennial renewal exercise commences on 1 December 2020 in accordance with Section 2.2.8.1 of the Guidelines and the processing of in-year application submitted by a consultant for change of Group in CE Service Category is yet to be completed on or before 30 November 2020, the consultant will then be exempted from the renewal exercise for the CE Service Category. In addition, the Group Change Debarment Period will start when the in-year application for change of Group is approved and a consultant will be exempted from the biennial renewal exercise for the Service Category concerned if the renewal exercise commences before the Group Change Debarment Period lapses.

2.2.6 Duty to Remain Eligible after Admission

Consultants on the List have the duty to remain eligible at any time after admission, i.e. the consultants on the List shall be able to satisfy the admission criteria for the Group and Service Category in which they are included. A consultant who does not meet the minimum admission criteria for its associated Group of a Service Category on the List at any time after admission shall notify the Secretary of EACSB in writing within one month and will be suspended from bidding for EACSB consultancies in that Service Category upon instruction by EACSB until such time the minimum requirement is met and accepted by EACSB. Alternatively, the consultant may apply, in the same notification, to downgrade to a lower Group of which the minimum admission requirements are met. Such application for downgrading of Group will be processed as an in-year application for change to another Group in accordance with Section 2.2.5 of the Guidelines and the Group Change Debarment Period will be imposed accordingly upon approval of the change. The ~~Consultant~~consultant will be suspended from bidding for EACSB consultancies in that Service Category upon instruction by EACSB until its application is approved by EACSB.

Upon receipt of the notification from the consultant, the Secretary of EACSB will inform the relevant list management departments ~~on the notification accordingly~~. DCRC(s) of the relevant list management departments shall carry out investigation to review the status of the consultant and office audit ~~may~~shall be conducted, ~~if necessary~~ for the application for downgrading to a lower Group. Recommendation for suspension or downgrading to a lower Group in this regard shall be submitted by ~~the~~ DCRC for EACSB's approval. Similarly, DCRC shall review any further information submitted by the consultant to demonstrate the

minimum admission requirements are met again and make recommendation regarding lifting of the suspension for EACSB's approval. If a suspended consultant still does not meet the minimum admission requirement within twelve months after the date of suspension, DCRC should consider seeking the approval of EACSB, following endorsement of DCRC's recommendation by ICRC, to remove this consultant from the List.

A suspended consultant shall notify the Secretary of EACSB when the minimum requirement is met and apply for lifting of [the](#) suspension. Similar procedure as for notification above shall be followed.

2.2.7 Duty to Report Reduction of Staff Promptly

Consultants on the List have the duty to report reduction of staff promptly. The following regulating actions would be taken by EACSB if a consultant fails to notify the Secretary of EACSB within one month, without reasons acceptable to EACSB, when its qualified professional staff resources fall below the minimum number required for the particular Group in the List:

- (a) If a consultant agrees to downgrade to any lower Group of which the staffing requirement could be met, it would be suspended from bidding for all EACSB consultancies in that Service Category for 3 months after it is approved by EACSB to be downgraded to such a lower Group. The downgrading of Group will be processed as an in-year application for change to another Group in accordance with Section 2.2.5 of the Guidelines and the Group Change Debarment Period will be imposed accordingly upon approval of the change.
- (b) If a consultant could not meet the minimum staff requirement of any Groups, or if a consultant refuses to downgrade to any lower Group of which the staff requirement could be met, it would not only be suspended from bidding for all EACSB consultancies in that Service Category but would also be suspended for 3 additional months after the original suspension should otherwise have been approved to be lifted. If the consultant does not provide any reply by the specified deadline, if any, in this circumstance, DCRCs may proceed as if the consultant refuses to downgrade to any lower Group.

The effective date of suspension of a consultant and the subsequent lifting in this respect shall be recommended by the DCRC concerned. In case the consultant is already under suspension arising from any other regulating actions, the above 3

additional months of suspension should be imposed after such existing suspension has been lifted. The DCRC concerned will submit recommendation to EACSB for approval.

2.2.8 Biennial Renewal and Re-grouping

2.2.8.1 Biennial Renewal

A renewal exercise following the procedures below will be conducted on a biennial basis. Consultants on the List are required to submit returns on their staff resources as well as other documents showing compliance with the ~~minimum~~ admission criteria for the respective Service Categories and Groups of the consultants, subject to the exemption mentioned in Section 2.2.5 of the Guidelines.

When the biennial renewal exercise commences, the Secretary of EACSB will inform the consultants, send the following information to the consultants on the List and request them to submit returns within 3 months on their updated information and documents:

- (a) Company information records kept in the computer system as described in Section 3.6.2 of the Guidelines;
- (b) the result of re-grouping exercise in Section 2.2.8.2 of the Guidelines, if any; and
- (c) a reply slip as in **Appendix 2.5**.

Consultants who need to update their information and/or changes to other Groups in the same Service Categories shall submit the updated information and documents together with the duly completed reply slip to the Secretary of EACSB. Consultants shall indicate in the reply slip the updates to be made and highlight the updates in the updated documents accordingly to facilitate processing.

Consultants who do not need to update their information or change to other Groups shall submit the duly completed reply slip to the Secretary of EACSB.

Upon receipt of submissions referred by the Secretary of EACSB, DCRCs of the list management departments will review the submissions and make recommendations normally within 3 months on listing status to EACSB for consideration. If necessary, DCRCs of the list management departments may seek clarifications and/or supplementary information from the consultants. In

addition, as stated in Section 2.2.11, office audits will be conducted on the selected consultants for verifying the information and documents as appropriate.

Upon receipt of the recommendations of DCRCs of the list management departments, the Secretary of EACSB will issue provisional result of the biennial renewal exercise to the consultants. If the consultants have any supplementary information to provide, they shall submit it to the Secretary of EACSB with copy to the respective list management departments within 2 weeks. Late submission of supplementary information will not be considered unless under exceptional circumstances.

Subject to the provision of supplementary information, if any, by the consultants and the review by the respective DCRCs of the list management departments, the recommendations of DCRCs of the list management department will be submitted to EACSB for approval. The Secretary of EACSB will then issue the result of the biennial renewal exercise to the consultants, normally in the third quarter of the year, and publish the updated List via the internet website.

If a consultant fails to meet the ~~minimum~~ admission criteria of the respective Group but meets those of lower Groups, DCRCs of the list management departments should seek confirmation from the consultant on whether it agrees to downgrade to the lower Groups, and then seek EACSB's approval to downgrade the consultant and/or take regulating actions as appropriate in accordance with Sections 2.2.6 and/or 2.2.7. If the consultant does not provide any reply by the specified deadline in this circumstance, DCRCs may proceed as if the consultant chooses to remain in the respective Group. DCRCs shall seek EACSB's approval to take regulating actions and/or downgrade the consultant as appropriate in a timely manner, regardless of the programme of the biennial renewal exercise. The Secretary of EACSB shall inform the consultant of the regulating actions and update the List accordingly upon approval.

2.2.8.2 Re-grouping

A re-grouping exercise will be conducted for all Service Categories, normally once every four years, by DCRCs of the list management departments prior to the renewal exercise of that year. In a re-grouping exercise, the balance of job opportunities and the number of consultants available in each Group(s)/ Service Category(ies) will be assessed. Adjustment on the bidding restrictions, such as grouping structure and tendering limits as provided in Section 2.3 of the Guidelines

may be considered. Normally, the tendering limits shall be adjusted if the cumulated adjustment percentage based on the Consumer Price Index (C) published by Census and Statistics Department since the last adjustment is equal to or more than $\pm 10\%$. The Secretary of ICRC will liaise with DEVB in initiating the re-grouping exercise and promulgate the schedule for DCRCs to submit their recommendations to facilitate the re-grouping exercise. According to the schedule, DCRCs of the list management departments will submit recommendations in one go to ICRC for endorsement before submission to EACSB for approval. The Secretary of ICRC may provide guidance, if any, on various operational issues relating to the management of the List of Consultants of EACSB as appropriate for the re-grouping exercise.

If there is any proposed adjustment on the bidding restrictions, such as grouping structure and/or tendering limit, DCRCs in consultation with DEVB may consider and recommend for approval by EACSB whether or not the Group Change Debarment Period shall be lifted. The result of the re-grouping exercise and, where appropriate, any lifting of Group Change Debarment Period will be announced by EACSB upon approval and would be effective starting from the forthcoming biennial renewal exercise.

2.2.9 Application for Change of Company Name

The section associated with the change of company name in EACSB Handbook shall be supplemented with the provisions stipulated below in this sub-section:

When the company name of a consultant has been changed, the consultant shall notify the Secretary of EACSB in writing of the change in name and submit:

- (a) a copy of the Business Registration Certificate in the new name;
- (b) (i) in the case of a company incorporated in Hong Kong, a copy of the Certificate of Change of Name issued under Section 107(3)(b) of the Companies Ordinance (Cap. 622); or
 - (ii) in the case of a registered non-Hong Kong company, a copy of the Certificate of Registration containing the current corporate name issued under Section 779(1)(b) of the Companies Ordinance (Cap. 622), and a legal opinion (original copy) from a lawyer practising in the country in which the company was incorporated confirming that under the law of that country a change of name by a company does not affect any rights

or obligations of the company, or render defective any legal proceedings by or against it, and any legal proceedings that could have been commenced or continued against it by its former name may be commenced or continued against it by its new name. The authenticity of the lawyer's professional qualifications also needs to be certified correct by a government or related establishment;

- (c) an updated consultant profile together with all the required documents (First paragraph of Section 2.2.4 of the Guidelines refers);
- (d) a list of all current agreements with the Government; and
- (e) change of bank accounts, if any.

Subject to the receipt of the above documents from the consultant, the Secretary of EACSB will register the change of name in the List for the Service Category(ies) in which the consultant was previously listed under the former company name; and notify the relevant list management department(s) and relevant procuring departments, which have agreement(s) with the consultant, of the change. Consultants are required to answer all reasonable enquiries from the Secretary of EACSB and the list management departments.

Upon notification of the Secretary of EACSB, the DCRC of relevant list management department shall investigate if necessary and recommend to EACSB whether there should be any change in the consultant's listing status within one calendar month from the date of referral by the Secretary of EACSB. The consultant will continue to be allowed to bid for agreements unless the DCRC of the relevant list management department recommends to EACSB that the consultant should be suspended from bidding.

2.2.10 Organizational Restructuring of Consulting Companies – Integration

The guidelines given in SDEV's memorandum ref. (0211Y-01-12) in DEVB(PS) 106/43 dated 24 July 2009 are applicable to the organizational restructuring scenario of one or more consulting companies (the transferor(s)) integrating into another consulting company (the transferee) by full transfer of their liabilities, assets, staff and resources to the transferee.

If the transferor still remains in existence after the restructuring, it shall provide a deed to the Secretary of EACSB to undertake not to make any reference to any of its past records, including consultant experience and past performance records in previous public works contracts/consultancies, as these deem to have been transferred to the transferee.

The transferee shall submit an application to the Secretary of EACSB if it intends to attain the same listing status as the transferor(s) upon organizational restructuring. The application will be processed by following the procedure stipulated in Section 2.2.4 of the Guidelines. If necessary, the Secretary of EACSB may also forward the documents provided by the transferee on the organizational restructuring, including legal opinion and undertakings, to the list management departments for reference.

2.2.11 Office Audits on Consultants

Office audits are mandatory for applications for inclusion in the List (see Section 2.2.4) and for change of Group (see Sections 2.2.5 and 2.2.6).

For consultants already admitted to the List, office audits on selected consultants for verifying the company information and documents submitted by ~~the consultants~~them will be conducted in February, June and October every year. If biennial renewal exercise is held in that year, the office audit in February will serve as the office audit for the exercise and its schedule may be adjusted to suit the programme of the biennial renewal exercise if needed. Normally, a consultant under a particular Service Category shall be audited for not more than once every year. No office audit is required for a particular Service Category and Group if all consultants under that Service Category and Group have been audited within one year. Notwithstanding the above, if there is information that would give rise to reasonable suspicions as to the technical capability of a consultant, e.g. dramatic reduction of staff resources or recent unsatisfactory performance etc., additional office audits may be arranged by DCRCs at any time of the year.

Irrespective of the grouping status of the consultants, at least one consultant shall be selected from each Group under each Service Category for each office audit exercise. To be fair in the selection of consultants for conducting office audit, factors to be considered shall include the following: _

- (a) whether the consultant was audited in the previous quarters;

- (b) whether the consultant received one or more adverse performance reports in the past 12 months;
- (c) whether the consultant was restructured;
- (d) whether the consultant was inactive, for example it has not participated in/ has not been awarded any consultancy agreements in the past few years; ~~and~~
- (e) when the number of the consultant's staff is suspected to be less than the admission criteria of the Group concerned (see Section 2.2.6);
- (f) when the consultant is suspected to have ceased operation (see Section 2.2.12); or
- ~~(e)~~(g) other circumstances which are considered appropriate in consultation with the Secretary of EACSB.

The Secretary of EACSB will coordinate the selection of consultants by DCRCs of the list management departments for office audit and return the consolidated list of firms to be audited to DCRCs for conducting the audits accordingly. DCRCs should assign, normally, one senior professional rank officer and one professional rank officer to carry out each office audit. Prior to the audit, nominated officers should obtain the latest company information submitted by the consultants for checking. If a consultant fails to submit updated company information and relevant documents as required for the biennial renewal exercise or to cooperate with the audit team for conducting the office audit without reasonable justifications, DCRC shall consider seeking EACSB's approval to suspend such consultant from bidding for EACSB consultancies in the Service Category until EACSB is satisfied that the consultant meets the ~~minimum~~ admission criteria for the Service Category on the List. If a suspended consultant still cannot demonstrate that it can meet the minimum admission requirement within twelve months after the date of suspension, DCRC shall consider seeking EACSB's approval to remove the consultant from the List. Recommendation for removal in this regard shall be submitted by DCRC for endorsement by ICRC before seeking EACSB's approval.

An audit report as in **Appendix 2.2** shall be completed and submitted to the DCRCs for follow up action, in consultation with EACSB if necessary, after each audit. DCRCs should ensure that all consultants being audited have duly followed up with the findings revealed from the audits and submitted any documents required to the Secretary of EACSB and/or DCRCs for further review where necessary.

2.2.12 Removal of consultants from the List

Under any of the following circumstances and upon receipt of recommendation from DCRC, and endorsement of ICRC, EACSB would consider that a consultant does not have the technical capability, integrity and/or intention to undertake further EACSB consultancies, and would resolve to remove it from a particular Service Category or all Service Categories under the List:

- (a) A consultant fails or refuses to observe the Rules and criteria pertaining to the administration of the List. (Last paragraph of Section 2.2.4 of the Guidelines refers)
- (b) A consultant has been suspended from bidding for EACSB consultancies in the appropriate Service Category due to non-compliance with the minimum admission requirement such as inadequate number of qualified professional staff or as a consequence of the biennial renewal exercise or office audit conducted and still fails to meet the said requirement within 12 months after the date of suspension. (Sections 2.2.6, 2.2.7 and 2.2.11 of the Guidelines refer)
- (c) If it is noted in an office audit that a consultant has not practised in local or overseas consultancy business of the relevant discipline actively for the required number of years as stated in the admission criteria, an investigation of the firm would be conducted in order to check whether it is still eligible for retention on the List. For the avoidance of doubt, “not practised” shall mean a consultant is not or was not at any material time engaged as lead or sub-consultant in any local or overseas engineering project of the scale and nature of work required for the Service Category concerned.

External mitigating factors relating to changes in the business environment such as general economy, local and overseas market conditions, availability of human resources, level of competition in the market etc. may be considered by EACSB in this case.

- (d) A consultant who has made a request for the novation of existing consultancy agreement(s).
- (e) A consultant refuses to submit Technical and Fee (T&F) Proposal after being shortlisted or withdraws T&F Proposals after submission of T&F Proposals without justifications to the satisfaction of EACSB on three or more occasions within a period of three years counting from the closing date for

submission of T&F Proposal for the consultant selection exercise associated with first occurrence of such failure. In this regard, a warning letter shall, if practicable, be sent by EACSB to the consultant concerned on such occasion.

- (f) If it is noted that a consultant has ceased its operation for three months or more without notifying EACSB, the situation should be reported to corresponding DCRC for issue of warning letter by registered mail to the consultant and an ad hoc office audit should be conducted prior to seeking EACSB's decision to remove this consultant from the List.
- (g) Other cases as stipulated in Section 4.3 of the Guidelines.

Subject to recommendation of DCRC, endorsement of ICRC and approval of EACSB, consultants removed from the List will normally be subject to a 12-month debarment period from re-admission.

2.2.13 Appeal

The consultant, who does not agree to the decision on its application or the regulating action imposed on it may appeal in writing, with substantiations and supporting evidence, to EACSB within 14 calendar days from the date when the copy of the decision or the notice of regulating action is sent to the consultant. The appeal can be delivered either by post, by fax or by email. Late submissions will not be considered. EACSB with the necessary assistance of respective DCRC(s) would decide on the case within one month if practicable, and such decision shall be final. Any imposed regulating actions will only be lifted when EACSB is satisfied that the appeal is sustained. The result of the successful appeal will not have any retrospective effect on the award of consultancies or decisions made in any consultant selection exercise that have already been conducted.

2.3 Bidding Restrictions

(Refer to implementation dates stated in **Appendix 1.1**)

Unless there is no appropriate Service Category available, all consultancy bids are to be invited from the List.

2.3.1 Procurement under EACSB and DCSCs

To promote competition and widen participation, bidding restrictions will be imposed based on “estimated lump sum fee” as shown in **Figure 2.1**. Cross-Group bidding is allowed in a controlled manner as stipulated in Section 3.1.1.1 of the Guidelines or when prior approval of the Head of Department has been obtained in accordance with Section 2.3.3 of the Guidelines. In addition, engagement of any consultants in the industry by the listed consultants as participants in the joint venture and/or as sub-consultants to undertake any sub-consulting services is allowed in a controlled manner as stipulated in Section 3.1.1.2 of the Guidelines or when prior approval of the Head of Department has been obtained in accordance with Section 2.3.3 of the Guidelines.

Bidding Restrictions – Service Categories with 3 Groups:

Tendering Limit	Grouping
>\$12M	Group 3
>\$6M & <=\$12M	Group 2
<=\$6M	Group 1

Bidding Restrictions – Service Categories with 2 Groups:

Tendering Limit	Grouping
>\$6M	Group 2
<=\$6M	Group 1

Figure 2.1 – Bidding restrictions

Proper packaging of consultancies for public works projects can help capitalise economics of scale, achieve administrative efficiency, and minimise interface issues. However, unnecessary bundling of consultancies may deprive tender opportunities of small and medium sized consultants, which may in turn affect the healthy development of the consulting sector as a whole.

In packaging consultancies, the procuring departments normally should not bundle assignments into one consultancy agreement merely for the sake of minimizing administrative work unless there are strong justifications. Instead, procuring departments should consider splitting consultancies into smaller and manageable sizes, where practicable, with due regard to the nature and requirements of each project as well as how the tender opportunities of small and medium-sized consultants can be enhanced. Unless otherwise agreed with DEVB beforehand, the procuring departments shall seek comments from DEVB on the packaging of the consultancies which are to be procured by following the EACSB procurement

procedures before issuing invitation for EOI submission or direct invitation for T&F Proposal (if EOI submission is not required).

(a) Bidding as Sole/Lead Consultant

For assignments under listed Service Category, the sole/lead consultant under the corresponding listed Service Category should have the listed Group status for that particular assignment as stipulated in **Figure 2.1**. For example, for an assignment with an estimated lump sum fee exceeding Group 1 tendering limit but not exceeding Group 2 tendering limit under Service Categories with three Groups, only consultants in Group 2 are permitted to bid as sole/lead consultant. For an assignment with an estimated lump sum fee exceeding Group 1 tendering limit under Service Categories with two Groups, only consultants in Group 2 are permitted to bid as sole/lead consultant.

For engineering and associated consultancy assignments not under the listed Service Category, the Assessment Panel should select suitable consultants from all reasonably available sources to form a non-restrictive list based on the agreed selection criteria. The invitation of Expression of Interest (EOI) (or T&F proposals under one-stage selection process) shall not be restricted to the consultants on the list. Other suitable consultants not on the list should also be considered. In addition, for assignments with estimated lump sum fee not exceeding Group 1 tendering limit, a consultant shall only be considered as eligible for bidding and award of the assignments if the total number of its works-related professional staff (please refer to Remark No. 5 of **Appendix 2.1** for determining whether a staff member is a “professional” in this regard), for example, engineers, architects, surveyors, planners and landscape architects, does not exceed 15, and the consultant concerned shall be registered and maintain an active office in Hong Kong. The consultant shall be requested to submit a declaration letter declaring that the total number of its works-related professional staff is not more than 15 with its EOI submission (or T&F proposal under one-stage selection process) as shown in **Appendix 2.4**.

If there is/are one or more associated companies having the listed Group status for that particular assignment as stipulated in **Figure 2.1**, only one of the associated companies shall be allowed to bid in that assignment.

(b) Engagement of Sub-consultants¹

For assignments under any of the listed Service Categories, engagement of sub-consultants (except the scenario mentioned in Section 2.3.1(b)(vi)) as required by procuring departments and/or initiated by the bidders themselves shall be subject to the following requirements:

- (i) if the lead consultant engages a sub-consultant to undertake service of a listed Service Category, the sub-consultant, subject to Sections 3.1.1.1 and 3.1.1.2 of the Guidelines, shall (1) be listed under the relevant Service Category and (2) have the same or a lower Group status as compared to the Group status for that particular assignment as shown in **Figure 2.1**. For example, for an assignment with an estimated lump sum fee exceeding Group 2 tendering limit under listed Service Categories, consultants in Groups 1 to 3 under Service Categories with three Groups, or Groups 1 to 2 under Service Categories with two Groups shall be engaged as sub-consultant. For an assignment with an estimated lump sum fee exceeding Group 1 tendering limit but not exceeding Group 2 tendering limit under listed Service Categories, only consultants in Groups 1 to 2 shall be engaged as sub-consultant;
- (ii) if there is no appropriate Service Category for the sub-consulting services but the services fall within a list of consultants maintained and published by the Government which is of restrictive nature (e.g. Architectural and Associated Consultants Selection Board (AACSB)), the procuring department shall, provide a restrictive list of sub-consulting firms by referring to other lists of consultants maintained and published by the Government (e.g. AACSB) for the service discipline concerned. In that case, the lead consultant shall, subject to Section 3.1.1.2 of the Guidelines, engage a sub-consultant on the restrictive list so provided to undertake such sub-consulting service; and
- (iii) If the service discipline is not available in any list of consultants maintained and published by the Government, the procuring

¹ A sub-consultant is allowed to associate with more than one lead consultant under the same bidding exercise.

department may provide a non-restrictive list of sub-consulting firms based on all reasonably available sources for the lead consultants' reference. The lead consultant is not obliged to engage a sub-consultant on the non-restrictive list of sub-consulting firms.

For other engineering and associated consultancy assignments not under the listed Service Category, engagement of sub-consultants (except the scenario mentioned in Section 2.3.1(b)(vi)) as required by procuring departments and/or initiated by bidders themselves shall be subject to the following requirements:

- (iv) for the sub-consulting service under listed Service Category, consulting firms eligible to be the sub-consultant shall also be determined by referring to Section 2.3.1(b)(i) as if the assignment is under the respective listed Service Category. For example, for an assignment with estimated lump sum fee exceeding Group 1 tendering limit but not exceeding Group 2 tendering limit, only consulting firms in Groups 1 to 2 shall be engaged as sub-consultant; and
- (v) for the sub-consulting service not under the listed Service Category, Section 2.3.1(b)(ii) and (iii) above applies.

Any submission of EOI or T&F Proposals (except the scenario mentioned in Section 2.3.1(b)(vi)) which does not comply with Section 2.3.1(b)(i) and (ii), and subject to Section 2.3.1(d)(i) and (ii) below, will not be considered.

Special scenario: engagement of individual as sub-consultant

- (vi) If the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in the individual's own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) above. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm the above and that it will not contract out all or any part of the sub-consulting service to any parties and such sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.

In case consultants have enquiries during tendering period on whether the proposed sub-consulting services are within the scopes of the listed Service

Categories or disciplines on the restrictive list provided by the procuring departments, they may seek clarifications from the procuring departments accordingly. The consultants shall submit enquiries with sufficient details to facilitate the processing of clarifications. Upon receipt of enquiries from consultants during tendering period, the Assessment Panels shall, in consultation with the relevant list management departments as appropriate, make the decisions and provide to all consultants invited with the same information before the closing date for submission of EOI and/or T&F Proposals for sake of fairness and transparency. For enquiries regarding whether the proposed sub-consulting service is within the scope of listed Service Categories under the purview of EACSB, the Assessment Panel may first make reference to the classification of assignment complexity table in **Appendix 2.3** of the Guidelines before consulting with the list management departments. In any case, subject to the advice of the list management departments, services which are recognized as specialized and/or innovative in the industry and/or not generally available among the consultants on the concerned list of consultants based on the respective admission criteria can be considered outside the scope of the respective listed Service Categories or disciplines. If the enquiries raised by the consultants require extra time to resolve, the procuring departments may consider extending the tendering period as appropriate.

(c) Bidding as Joint Venture

For assignments under listed Service Category, only joint venture formed by two or more listed consulting firms under the corresponding listed Service Category with the listed Group status for that particular type of assignment as stipulated in **Figure 2.1** are allowed, subject to Sections 3.1.1.1 and 3.1.1.2 of the Guidelines. For example, for an assignment with estimated lump sum fee exceeding Group 1 tendering limit but not exceeding Group 2 tendering limit under Service Categories with three Groups, joint venture of consulting firms in Group 2 can be formed. For an assignment with estimated lump sum fee exceeding Group 1 tendering limit under Service Categories with two Groups, joint venture of consulting firms in Group 2 can be formed.

For engineering and associated assignments not under the listed Service Category, the Assessment Panel shall specify the selection criteria of suitable consultants for formation of joint venture. However, for assignments with estimated lump sum fee not exceeding Group 1 tendering limit, a joint venture will only be considered as eligible for bidding and award of the

assignments if the total number of works-related professional staff in the joint venture does not exceed 15 and the total number of works-related professional staff in each of the individual participants does not exceed 15. In addition, the joint venture or the participants shall be registered and maintain an active office in Hong Kong.

- (d) Engagement of Unlisted Consultants as Participants in Joint Ventures or as Sub-consultants to undertake sub-consulting services under listed Service Category

Unlisted consultants are allowed to form joint ventures with listed consultants or to be engaged as sub-consultants to undertake sub-consulting services under any of listed Service Category subject to the following conditions:

- (i) Application for inclusion on the List under appropriate Service Category and Group has been submitted by the unlisted consultants on or before the date set for the close of submission of EOI, or if this has been extended, the extended date;
- (ii) If a consultant proposes to engage unlisted consultants as sub-consultant, where EOI are invited, the unlisted consultant shall make an application for inclusion on the List under the appropriate Service Category on or before the submission of EOI. The lead consultant shall either remove the unlisted consultant or replace the unlisted consultant with a listed consultant and deliver the notification to the project office before the deadline set for change of sub-consultants as more particularly stated in the invitation letter for T&F Proposals if the application for inclusion on the List made by the unlisted consultant is yet to be approved by EACSB. In all cases, the lead consultant shall ensure that the application for inclusion on the List made by the unlisted consultant can be approved by EACSB on or before the date set for the close of submission of T&F Proposal, or if this has been extended, the extended date; and
- (iii) For unlisted consultants bidding as a participant under a joint venture, the application for inclusion on the List shall be approved by EACSB on or before the date set for the close of submission of T&F Proposal, or if this has been extended, the extended date.

Subject to Sections 2.3.1(b)(vi) and 3.1.1.2 of the Guidelines, any submission of EOI or T&F Proposals which does not comply with any of the conditions in Section 2.3.1(d) will not be considered.

2.3.2 Procurement by Quotation

For procuring engineering and associated consultancies not exceeding the financial limit as set out in Section 220 of Stores and Procurement Regulations, i.e. by means of seeking quotations, Figure 2.1 is still applicable. For assignments under the listed Service Category, only listed consulting firms in Group 1 shall be invited to submit quotation for the consultancies. Likewise, Cross-Group bidding is only allowed in a controlled manner as stipulated in Section 3.1.1.1 of the Guidelines or when prior approval of the Head of Department has been obtained in accordance with Section 2.3.3 of the Guidelines and restriction on sub-consulting and formation of joint-venture mentioned in Section 2.3.1 of the Guidelines will also be applicable. Prior to the award of the consultancy, the procuring department shall check whether the nominated lead consultant and sub-consultant(s) are still eligible for appointment. The procuring department may make reference to the procedures in **Appendix 3.12** as appropriate.

For assignments not under the listed Service Category, the requirement on inviting quotation from listed consulting firms will not be applicable. However, a consultant will only be considered as eligible for bidding and award of the assignments if the total number of its works-related professional staff does not exceed 15.

2.3.3 Deviation from Bidding Restrictions

Subject to Sections 3.1.1.1, 3.1.1.2 and unless otherwise specified in the Guidelines, prior approval of the Head of Department should be obtained for any deviation from the bidding restrictions stated in Section 2.3 of the Guidelines. The approval of the deviation shall cover the proposed alternative tender arrangement to be adopted for the consultant selection exercise. The procuring department shall inform DEVB of the approval of Head of Department, providing relevant details of the consultancy for record purpose.

2.3.4 Engagement of Specialist Sub-consultants

Depending on the nature and complexity of the assignment, there may be a need for engaging sub-consultants possessing specialized knowledge, overseas experience, and/or providing expert/innovative input etc. on particular areas which

may benefit the outcome of the assignment. Subject to Sections 2.3.1(b)(vi) and 3.1.1.2 of the Guidelines, procuring departments shall seek prior approval on the relevant deviation from bidding restriction in accordance with Section 2.3.3 of the Guidelines if necessary. The requirements on engagement of the specialist sub-consultants should be clearly stated in the invitation documents as appropriate. The procuring departments shall also include relevant provisions in the invitation documents to suit the corresponding tender arrangement.

3. SELECTION AND APPOINTMENT RULES FOR ENGINEERING AND ASSOCIATED CONSULTANCIES

(For implementation dates, refer to **Appendix 1.1**)

3.1 Selection of Consultants for Submission of Expression of Interest

3.1.1 Consultancies under Listed Service Categories

The Assessment Panel shall take into account the nature and the pre-tender estimate of the consultancy, and decide in accordance with Section 2.3 of the Guidelines the appropriate Service Category/Group(s) of consultants to be invited to submit EOI for the assignment. Invitation for EOI or direct invitation for T&F Proposals (if EOI submission is not required) shall be sent to all the listed consultants in the appropriate Service Category/Group(s), other than those under suspension, and posted on the internet website of the procuring department(s).

Open invitation for EOI for consultancies under listed Service Categories is no longer required.

For one-stage selection process (EACSB Handbook Section 3.1.3.1 refers) where EOI submission is not required, Section 2.3 of the Guidelines shall also apply in selecting consultants for submission of T&F Proposals.

3.1.1.1 Extension of Invitation to Other Groups

If the number of listed consultants identified in accordance with Section 2.3 of the Guidelines is less than five, consultants from either the next higher or the next lower Group, as Assessment Panel having taken the nature and scale of the assignment concerned into account considers appropriate, shall also be invited to submit EOI or T&F Proposals (for one-stage procurement process) for the assignment.

For two-stage consultant selection process, if the Assessment Panel considers, based on available information (e.g. relevant tendering experience for consultancies of similar scale and nature), the number of EOI submissions to be received may be less than three, the Assessment Panel may consider conducting a sounding-out exercise to ascertain the number of EOI submissions likely to be received. If the estimated number of EOI submissions to be received is less than

three based on the outcome of the sounding-out exercise, the Assessment Panel may consider inviting consultants in either the next higher or the next lower Group, as Assessment Panel considers appropriate, to submit EOI for the assignment.

The sounding-out exercise shall be conducted in writing. Information including consultancy agreement number, agreement title, tentative EOI invitation date, the brief scope of the consultancy, the tentative list of deliverables, the tentative programme of the consultancy and any other special requirements (e.g. staffing) shall be issued to the consultants in the appropriate Service Category and Group(s) selected in accordance with Section 2.3 of the Guidelines. The consultants shall be requested to reply in writing on a non-committal basis within a reasonable period, usually not less than one week and not more than two weeks, by indicating their interest in submitting EOI for the assignment. A sample letter for sounding out exercise is attached at **Appendix 3.1** for reference.

There are occasions in which the consultant selection exercises are cancelled as insufficient number of EOI submissions or no T&F Proposals (for one-stage procurement process) are received. Under such circumstance, if the Assessment Panel considers that the response of the consultants may not be improved by reviewing the project requirements of the assignment, the Assessment Panel may consider also inviting the consultants in either the next higher or the next lower Group to submit EOI or T&F Proposals (for one-stage procurement process) for the assignment concerned next time. For the avoidance of doubt, the prior approval of the Head of Department as stated in Section 2.3.3 of the Guidelines is not required.

If the Assessment Panel considers inviting consultants in the next higher or lower Group to submit EOI or T&F Proposals (for one-stage procurement process) for the assignment, the same extension shall apply to the engagement of sub-consultants and the formation of joint ventures (e.g. if the consultants in Groups 2 and 3 are invited to submit EOI under Cross-Group bidding, the consultants in Group 3 shall be eligible to be engaged by the consultants in Group 2 as sub-consultants for the assignment. Also, the consultants in Group 3 can form a joint venture with the consultants in Group 2 for the assignment under such circumstance).

Notwithstanding the above, in considering whether to invite T&F Proposals direct for one-stage procurement process, the Assessment Panel shall observe the factors as mentioned in SPR 440(b), rather than merely the outcome of the sounding-out

exercise. For the avoidance of doubt, sounding out exercise should not be regarded as a replacement for EOI.

3.1.1.2 Engagement of any consultants in the industry by the listed consultants as participants in the joint venture and/or as sub-consultants to undertake any sub-consulting services

In order to enable our consultants to pool together adequate professional resources to meet the demand of the upcoming public works projects, under the following circumstances, the requirements as set out in Section 2.3.1(d) and Section 2.3.3 above shall be waived in the following circumstances:

- (a) consultancies with an estimated lump sum fee exceeding \$20M; or
- (b) where insufficient consultants are identified in a sound-out exercise (i.e. less than three); or
- (c) where project offices consider that engagement of non-local experts (individual/firms) to provide specialized sub-contracting services is necessary. In this case, the consultants are only allowed to engage such non-local experts as sub-consultants but not to form joint ventures with them. Section 2.3.1(d) and Section 2.3.3 of the Guidelines shall still be followed for other proposed sub-consultants.

For the adjustments to the qualification requirements of staff category of “Senior Professional” and “Professional”, please refer to DEVB TC(W) No. 2/2016 and its subsequent updates for details.

3.1.2 Consultancies not under Listed Service Categories

If there is no appropriate Service Category of consultants under the List of Consultants maintained by EACSB to suit a particular engineering and associated assignment, the invitation for EOI of that particular assignment shall be opened to all consultants in the industry.

The Assessment Panel shall select suitable consultants from all reasonably available sources to form the Longlist based on the agreed selection criteria. The Longlist shall normally include 15-20 consultants depending on the nature of the services involved.

For consultancies not under listed Service Categories and with estimated lump sum fee not exceeding the Group 1 tendering limit, the relevant bidding restrictions as described in Section 2.3 will be applied. Consultants are required to submit

declarations as described in Section 2.3.1(a) that the total number of their works-related professional staff are not more than 15 with their EOI submission and T&F Proposal (if EOI submission is not required).

Invitation for EOI submission or direct invitation for T&F Proposals (if EOI submission is not required) shall be sent to the longlisted consultants and posted on the internet website of the procuring department.

3.2 Invitation for EOI Submission and Technical and Fee Proposals

3.2.1 Procedures relating to Invitation for EOI Submission and Technical and Fee Proposals

Unless otherwise specified in the Guidelines, the procedures relating to invitation for EOI submission and T&F Proposals shall follow EACSB Handbook.

The reference table for determining the specified weighting to be used for the Technical Score and Consultancy Fee Score is revised by deleting “Straight-forward” type of complexity. The revised reference table is in **Figure 3.1**.

Weightings for Different Complexity of Projects for Technical Score/Consultancy Fee Score (%)	
Normal	Complex
63/27	72/18

Figure 3.1 – Weighting for Technical Score/Consultancy Fee Score

The complexity of each assignment will be determined by the Assessment Panel, or procuring department if Assessment Panel is not formed, following the prescribed criteria laid down by the list management departments of the respective Service Categories. Details of the classification of assignment complexity for the nine Service Categories are listed at **Appendix 2.3**.

3.2.2 Invitation Letters

~~Some amendments to the standard invitation letters and associated invitation documents in the EACSB Handbook Revision No. 16 are shown in Appendix 3.3 to suit the latest updates to the Guidelines. Relevant requirements for preparation of the marking scheme should be observed with reference to the assessment of~~

~~Technical Proposal, Fee Proposal, Fee Quality and overloading checking as stated in Sections 3.3, 3.4, 3.5 and 3.6.3 of the Guidelines.~~

~~Invitation letter for T&F Proposal should be accompanied with a soft copy of manning schedule template as attached in **Appendix 3.4** for the bidders to complete and return with the T&F Proposal. The manning schedule shall be submitted in both hard copy and soft copy, and the soft copy shall be digitally signed by the consultant. In case there is discrepancy in the manning schedule between the soft copy and the hard copy, the soft copy shall prevail.~~For agreements adopting NEC PSC, please refer to the latest template of invitation letters and associated documents published on DEVB's website:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/practice_notes_nec_professional_services_contract/index.html

3.3 Assessment of EOI Submission and Technical Proposal

The Assessment Panel shall grade the “Previous relevant experience” and “Knowledge, experience and capability of key staff” of EOI submission, and the “Consultant’s Experience”, “Response to the Brief” and “Staffing” of Technical Proposal by following the “Full Marks” approach as described in **Appendix 3.2(A)**.

The adjustment to the assessment of the EOI submission and the Technical Proposal highlighted below shall be adopted:

- (a) The terms “Core Personnel” and “Key Staff” shall mean:

Core Personnel: staff includes the project manager, partner in charge, project/study director, team leaders of relevant disciplines or specialist. While the procuring departments shall specify the minimum number of Core Personnel and their respective designations in the EOI/T&F invitation documents for the purpose of tender assessment using the “Full Marks” approach, the consultants may propose in their EOI submissions or T&F Proposals additional Core Personnel for the assignment. For the avoidance of doubt, if the number of core personnel proposed by the consultants for a

particular designation is more than that specified in the invitation documents, the average marks attained by the core personnel for such particular designation would be adopted in tender assessment under the “Full Marks” approach. If the number of core personnel proposed by the consultant for a particular designation is less than that specified in the invitation documents, the core personnel proposed will be marked based on the relevant selection criteria while the core personnel missing in the submission will be graded “P”.

Key Staff: staff named in the manning schedule of the Technical Proposal, including Core Personnel.

- (b) The relative significance of the staff categories for satisfactory performance of the assignment shall be in the ratio of 4:2:1 (which may however be substituted by another suitable ratio as may be determined by the Assessment Panel) with respect to the categories of three groups (viz. “partners/directors (P/D) and chief professional (CP)”, “senior professional (SP) and professional (P)” and “assistant professional (AP) and technical (T)”). The ratio shall be used for calculating the weighted total manpower input for the assessment.
- (c) To facilitate the implementation of the manpower resources checking system as mentioned in Section 3.6 of the Guidelines, the conversion factor from man-hour to man-week shall be fixed at 50 man-hour per man-week and used for the purposes including but not limited to the following:
 - (i) checking of compliance with the Specified Percentage Range requirements (*Note: for agreements not adopting the referenced staff rates for additional Services stated in Section 3.4 of the Guidelines*); and
 - (ii) checking of overloading situation.
- (d) The bidder is required to complete and submit the table in Annex F to the Sample Invitation Letter for EOI in Appendix 3.1 of the EACSB Handbook with its EOI submission and the table in Annex D to the Sample Invitation Letter for T&F Proposal (For Two-stage Selection Process) in Appendix 3.4 of the EACSB Handbook or Annex G to the Sample Invitation Letter for T&F Proposal (For One-stage Selection Process) in Appendix 3.4A of the EACSB

Handbook with its Technical Proposal². In each of the said tables, the bidder is required to indicate, if any, the name of each proposed sub-consultant, the scope of sub-consulting services to be undertaken by each listed and unlisted sub-consultant to be employed, the relevant listed service category or discipline for which each sub-consultant is to be employed and the corresponding list maintained and published by the Government. If the proposed sub-consultant is unlisted but an application for inclusion on the List of Consultants of EACSB under the relevant Service Category has been made prior to the date set for close of submission of EOI, the bidder is required to indicate on which the date such application is made in the table for EOI submission (these items of information are collectively referred to in this paragraph as “the sub-consultants’ information”). Notwithstanding the above, the Assessment Panel shall read the table, if submitted, in conjunction with other parts of the EOI submission and/or Technical Proposal in assessing the sub-consulting services to be undertaken by each listed and unlisted sub-consultant to be employed.

- (e) In case there is ambiguity or inconsistency in the sub-consultants’ information contained in the table and other parts of the EOI submission and/or Technical Proposal, the Assessment Panel should consider all supporting information in the tender as a whole and exercise their best judgement or best practice to assess the tender as it is. Where there is no room for manipulation by a bidder by virtue of subsequent clarification/ correction or where the clarification/ correction of such ambiguity would not change the EOI submission and/or Technical Proposal in substance or the quality of the EOI submission or Technical Proposal which would give the bidder an advantage over the other bidders, the concerned bidders may be permitted to clarify/correct the ambiguity or inconsistency. In determining if the sub-consulting service to be undertaken by a proposed sub-consultant falls within the scope of the listed Service Categories or disciplines on the restrictive list

² For agreements where section 3.1.1.2(a) and/or (b) apply, the listed consultants are allowed to engage any consultants in the industry as sub-consultants to undertake any sub-consulting services under the consultancy, no matter whether the sub-consulting services are under the listed Service Categories. Under such circumstances, the submission of the table of sub-consultants (i.e. Annex F to the Sample Invitation Letter for EOI in Appendix 3.1 of the EACSB Handbook, Annex D to the Sample Invitation Letter for T&F Proposal (for two-stage selection process) and Annex G to the Sample Invitation Letter for T&F Proposal (for one-stage selection process) is not required.

provided by the procuring departments, the Assessment Panel shall refer to the last paragraph of Section 2.3.1(b) of the Guidelines for reference.

3.4 Assessment of Fee Proposal

Assessment of Fee Proposal shall follow the provisions of EACSB Handbook, together with the adoption of the enhanced bidding mechanism with the introduction of (1) the enhanced fee diving control mechanism and (2) the adoption of referenced staff rates for additional Services in the calculation of the adjusted all-inclusive time charge rates and adjusted notional value for additional Services as described in **Appendix 3.2(B)**.

For some consultancies, such as those adopting NEC PSC Option C and time charge in which the adoption of referenced staff rates for additional Services is not applicable, only (1) the enhanced fee diving control mechanism shall be adopted.

~~Prior approval from DEVB shall be sought for not adopting the enhanced bidding mechanism in accordance with paragraph 6 of DEVB's memo ref. DEVB(PS)106/43 dated 30 September 2022. For any assessment of Fee Proposal without adopting the enhanced bidding mechanism, procuring department shall consider the requirements on fee diving control mechanism in the Guidelines (Revision No. 2), and shall be stated in the invitation documents clearly.~~

3.5 Assessment of Fee Quality

Assessment of Fee Quality shall follow the provisions of EACSB Handbook, with computation of the weighted total manpower input of the technical proposal using the ratio mentioned in Section 3.3(b) above.

3.6 Manpower Resources Checking System

3.6.1 Public Works Consultants Resources Allocation Register

A manpower resources checking system, namely Public Works Consultants Resources Allocation Register (PWCRAR), has been subsumed in the Consultants' Performance Information System (CNPIS) to serve as a central database to

facilitate management of consultants included in the List by the list management departments, and to upkeep and maintain the manpower input earmarked for each EACSB consultancy by consultants for the purpose of checking overloading in tender assessment and performance appraisal by procuring departments.

The PWCRAR can be accessed through the Government Backbone Networks via the Departmental Portal. A user manual and a training manual of the system can be downloaded from the web page of the system. The PWCRAR allows the consultants to submit quarterly updates direct to the PWCRAR through registered email accounts.

To effect the two-tier checking/confirmation of the data input, the users of the PWCRAR will be divided into two different user groups (i.e. officers and endorsers) which will have different access right in the system. In general, officers are to upload/input manpower data into the PWCRAR while endorsers are to confirm the manpower data uploaded/input by the officers in the PWCRAR. Please refer to the user manuals for details on the mapping of access rights.

Currently, there are departmental system administrators, one for each user department, assigned with the right to update and amend the user list of their departments in CNPIS. Any change in the access right to the PWCRAR shall be carried out in CNPIS.

3.6.2 Management of the List of Consultants

As mentioned in Section 2, the consultants shall submit applications to Secretary of EACSB for admission to the List of Consultants. Secretary of EACSB will upload the relevant information, such as the consultants profile form, to the PWCRAR accordingly. EACSB will base on the recommendations of the list management departments, approve or reject the admission applications. Upon approval of admission by EACSB, the list management departments shall update the information in the PWCRAR when required and confirm the data in the PWCRAR accordingly. The list management departments can also retrieve relevant information of consultants through the PWCRAR and carry out checking, updating and/or renewal when required. Please refer to **Appendix 3.5(A)** for the workflow of list management for reference.

3.6.3 Overloading Checking in Tender Assessment

The overloading checking requirements in this Section shall apply to consultant selection exercises following the EACSB procurement procedures.

The bidders are currently required to submit the curriculum vitae (CV) of the key staff in their T&F Proposals when they bid for the consultancies. The procuring departments will assess the experience and capability of the key staff base on the CV and give marks to the corresponding attributes of the T&F Proposals of the bidders accordingly. With the PWCRAR in place, the procuring departments can check at the tender stage the workload situation of the key staff proposed and see if they can undertake additional works in accordance with the manning schedule of the T&F Proposals. Any overloading situation (i.e. staff working at more than 4 man-weeks per month) can be taken into consideration and reflected in assessing the “Adequacy of professional and technical manpower input” attribute of the T&F Proposals in accordance with Section 3.3 of the Guidelines. Please refer to **Appendix 3.5(B)** for the workflow of tender assessment and **Appendix 3.6** for details of overloading checking in tender assessment.

As overloading checking will involve the checking of the workloads of bidders in other on-going consultancies as contained in the PWCRAR, provisions have to be incorporated in the invitation letters under the new policy to obtain consent of the bidders on access to their workloads in other on-going consultancies for the purpose of tender assessment. ~~Some amendments to the standard invitation letters in the EACSB Handbook Revision No. 16 are shown in Appendix 3.3 to suit the latest updates to the new policy.~~

For agreements adopting NEC PSC, please refer to the latest template of invitation letters and associated documents published on DEVB’s website:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/practice_notes_nec_professional_services_contract/index.html

3.6.4 Performance Appraisal

To align with Section 3.6.3 above, the overloading monitoring requirements in this Section shall apply to consultancies which are procured in accordance with the EACSB procedures.

Under the new policy, the consultants will be required to provide quarterly updates on the manpower input deployed and/or to be deployed for the consultancies that they are working on. The quarterly updates on the manpower input can be monitored through the PWCRAR which can provide an objective basis for assessing the adequacy of staff deployed by the consultants.

The procuring departments shall, however, note that there are various factors affecting the amount of manpower input earmarked by the consultants for the consultancies. The procuring departments shall take into account various factors in assessing consultants' performance. The quality of works is still the focus of the assessment and the performance of the consultants shall not be unnecessarily marked down simply due to the submission of a manpower input lower than that proposed in the T&F Proposal.

Please refer to **Appendix 3.5(C)** for the workflow and **Appendix 3.7** for details of quarterly update of manpower input.

The consultants are required to submit declarations that the manpower resources provided are in accordance with the staffing proposal made at the tender stage (or as amended and agreed subsequently by the procuring department). The Special Condition of Employment and sample clauses for consultancy brief in **Appendix 3.8** have to be incorporated in the consultancy agreement invited under the new policy.

3.7 Checking of Listing Status During Consultant Selection Process

The consultants taking part in consultant selection exercises shall maintain their listing status throughout the process. However, the listing status of consultants in the List of Consultants of EACSB (the List) may be changed for various reasons such as upgrading to higher Group as a result of re-grouping exercise, inclusion of a new firm on the List, suspending from bidding due to poor performance, downgrading to lower Group due to insufficient qualified professional staff, etc., which may in turn affect their eligibility for the consultant selection exercises and award of consultancy. Hence, the procuring department shall conduct checking on the consultants' eligibility throughout the consultant selection process prior to award of the consultancy.

In order to avoid confusions that may arise when changes of listing status of firms occur during the consultant selection process, the operational procedures to deal with changes in the eligibility of a consultant to bid for a consultancy under several scenarios as set out in **Appendix 3.12** shall be followed.

3.8 Correction Rules

In occasions where errors are identified in the EOI submissions and/or the T&F Proposals, procuring departments shall follow the relevant correction rules in the invitation documents to handle the errors where appropriate. In particular, some correction rules are provided in the invitation documents for handling the errors in the manning schedule and the fee proforma. In the event that no written correction rule is applicable, procuring departments shall observe the relevant requirements in SPR 365 in seeking clarifications from consultants and handling the errors.

4. MONITORING AND DISCIPLINARY MECHANISM

(Refer to the implementation dates in **Appendix 1.1**)

4.1 Submission and Declaration Requirement

Apart from those submissions and declarations as stipulated in the consultancy agreement, EACSB Handbook and relevant DEVB Technical Circulars (Works), the consultants are required to make the following submissions, for each consultancy agreement:

- (a) an updated manning schedule in electronic form with specified design/format for updating the Public Works Consultant Resources Allocation Register in accordance with Section 3.6 of the Guidelines on a quarterly basis;
- (b) a declaration that the manpower resources provided are to the best knowledge of the consultant and are adherence to the staffing proposal made at the tender stage (or as subsequently updated to suit the latest development of the assignment). This declaration shall be submitted by consultant using the template in **Appendix 3.8** when it submits the updated manning schedule in Section 4.1(a) above; and
- (c) a declaration of conflict of interest (actual, potential or perceived) associated with private sector consulting services, if any. This declaration shall be submitted by consultant in accordance with the provision in ETWB TC(W) No. 18/2005 subsumed in EACSB Handbook with standard Special Conditions of Employment related to conflict of interest and debarring and the sample declaration form amended in accordance with **Appendix 4.1**.

4.2 Performance Reporting

An assessment aspect has been incorporated into the consultants' performance reporting system for the purpose of assessing consultants' professional conduct. The Reporting Officer will be required to assess and confirm the consultant's professional conduct in Section F of Part I of the Performance Report. In view of the importance for consultants to uphold integrity and observe professional conduct in delivering their services under the agreement, an unsatisfactory rating on the

consultants' professional conduct will render the overall performance "Unacceptable". Guidelines on the assessment of the consultants' professional conduct are shown in **Appendix 4.2**.

The system for management of consultant's performance promulgated via DEVB TC(W) No. 3/2016 and its subsequent updates including the updated assessment criteria and the new bonus score system, together with the above mentioned assessment aspect, is extended to engineering and associated consultancies not exceeding the financial limit as set out in Section 220 of the SPR and procured in accordance with the EACSB procurement procedures.

4.3 Disciplinary Mechanism

The disciplinary mechanism applicable to engineering and associated consultancies as stipulated in DEVB TC(W) No. 3/2016 shall be followed with amendments described below:

(a) **Regulating Action (Adverse Report)**

Regarding the taking of regulating actions associated with adverse report stipulated in paragraph 20 of Annex I to DEVB TC(W) No. 3/2016, the relevant DCRC shall consider recommending removal of the consultant from the List after receiving the fourth consecutive adverse Interim Report on the same assignment.

(b) **Regulating Action (Technical Incompetence)**

Regarding the taking of regulating actions associated with technical incompetence stipulated in paragraph 21 of Annex I to DEVB TC(W) No. 3/2016, if the consultant is again assessed as technically incompetent in the review by the DCRC of the procuring department as described in paragraph 24 of Annex I to DEVB TC(W) No. 3/2016 after suspension in accordance with paragraph 21 of Annex I to DEVB TC(W) no. 3/2016, the period of suspension shall be extended to at least twelve months or more, counting from the first day of the suspension. If the consultant concerned is still assessed as technically incompetent before the lapse of extended suspension period, the DCRC shall consider recommending removal of the consultant from the List after the suspension.

(c) Regulating Action (Other Circumstance)

Regarding the taking of regulating actions associated with other circumstances stipulated in paragraph 22 of Annex I to DEVB TC(W) No. 3/2016, if the consultant concerned is only suspended from bidding, i.e. not yet removed from the List in accordance with Section 2.2.12 of the Guidelines and is assessed that the suspension should be extended in the review by the DCRC of procuring department in accordance with paragraph 24 of Annex I to DEVB TC(W) No. 3/2016, the period of suspension shall be extended to a minimum of twelve months, counting from the first day of the suspension. If the consultant concerned is still assessed that the suspension should be extended in the review by the DCRC of the procuring department before the lapse of extended suspension period, the DCRC shall consider recommending removal of the consultant from the List after the suspension. For the avoidance of doubt, the regulating actions stipulated in paragraph 22 of Annex I to DEVB TC(W) No. 3/2016 include direct removal of the consultant from the List without imposition of any prior suspension from bidding.

4.3.1 Imposition and Lifting of Suspension

Prior to imposition and lifting of suspension associated with adverse report and technical competence stipulated in paragraphs 20 & 21 of Annex I to DEVB TC(W) No. 3/2016, ~~the~~ DCRC of the procuring department shall submit recommendation to ICRC for approval.

Prior to imposition and lifting of suspension associated with circumstances other than those stipulated in paragraphs 20 & 21 of Annex I to DEVB TC(W) No. 3/2016 and those mentioned in Sections 2.2.6, 2.2.7 and 2.2.11 of the Guidelines, ~~the~~ DCRC of the procuring department shall submit recommendation to ICRC for endorsement before seeking EACSB's approval. In this connection, DCRC should take note of the additional proof required from the consultant (see Section 2.2.4.3) in processing the application for lifting of suspension related to integrity-related misconduct.

Prior to imposition and lifting of suspension associated with circumstances mentioned in Sections 2.2.6, 2.2.7 and 2.2.11 of the Guidelines, the DCRC of the procuring department shall submit recommendation to EACSB for approval.

4.3.2 Imposition of Removal and Debarment Period for Re-admission

Prior to imposition of removal of consultant and debarment period for re-admission, the DCRC of the procuring department shall submit recommendation to ICRC for endorsement before seeking EACSB's approval.

Subject to recommendation of DCRC, endorsement of ICRC and approval of EACSB, consultant removed from the List will normally be subject to a 12-month debarment period from re-admission.

4.3.3 Appeal

The appeal mechanism stipulated in paragraph 25 of Annex I to DEVB TC(W) No. 3/2016 for the part regarding the regulating action imposed on the consultant shall be replaced by the procedures in Section 2.2.13 of the Guidelines.

5. COORDINATION AMONG BUREAUX/DEPARTMENTS

(Refer to the implementation dates in **Appendix 1.1**)

5.1 Information Systems

The following information systems are available for facilitating the selection, appointment and management of consultants under the purview of EACSB:

(a) **Consultants' Performance Information System (CNPIS)**

It is a centralized repository of information of consultancy agreements and consultants' performance with functions. Such information is useful for management of consultants' performance and tender evaluation for consultancy assignments for public works projects.

(b) **Public Works Consultants Resources Allocation Register (subsumed in CNPIS)**

It is a centralized repository of information of consultants in the List of Consultants under the purview of EACSB and their manpower input proposed for consultancies under tendering and allocated/to be allocated for on-going consultancies. Such information is useful for management of the List of Consultants and checking of manpower resource allocation of consultants at both tendering stage and agreement execution stage.

(c) **Public Works Projects Location Plan Register**

It is a centralized repository of location plans for public/private works projects with textual and spatial information which can be used for visualizing project boundaries of on-going public/private works projects.

5.2 Management of Operation Structure

The existing EACSB and Secretary of EACSB are developed into a centralized unit for overseeing the management of the List of Consultants of EACSB, procurement of consulting services and review of consultants' performance. An Inter-Departmental Consultants Review Committee (ICRC) comprising

representatives from each list management department of the respective Service Categories and other procuring departments is set up to assist EACSB and provide guidance to DCRC on various operational issues related to management of the List of Consultants of EACSB, evaluation of consultants' performance and disciplinary actions.

Implementation ~~Plan~~ Programme

Activities	Start	Finish
1. Registration		
- Formal registration	3 Jul 2018	-
- Accept full time local/ overseas professionals recognized by local professional bodies	3 Jul 2018	30 Nov 2023
- Accept full time local professionals recognized by local professional bodies only	1 Dec 2023	-
- Allow change Group after registration without imposing debarment period subject to compliance with relevant admission criteria	3 Jul 2018	30 Nov 2020
- First biennial renewal of registration	1 Dec 2020	-
- First re-grouping exercise	2022	
- Adopt updated admission criteria for professional in Environmental Studies (P6)	1 Dec 2024	-
- <u>Adopt new admission criteria on Integrity Management (Integrity Policy)</u>		
(a) <u>For new application received / under processing on or after 1 July 2026</u>	(a) <u>1 Jul 2026</u>	=
(b) <u>For consultants already admitted to the List</u>	(b) <u>1 Jul 2026</u>	(c) <u>31 Oct 2026</u>
- <u>Adopt new renewal criteria on Integrity Management (Integrity Training)</u>	<u>4th biennial renewal exercise in 2027</u>	=
- <u>Introduce additional requirements for lifting of suspension or re-admission applications, as the case may be, for consultants who have been suspended from bidding or removed from the List due to integrity-related misconduct:</u>	<u>1 Jul 2026</u>	=
(a) <u>Successful completion of integrity training course;</u>		
(b) <u>Satisfactory enhancement(s) of their integrity management system as endorsed by an independent auditor.</u>		
2. Consultancy Tender		
- All EOI/ Tenders to be invited from Service Categories/Groups	3 Dec 2018	-
- Implement VFM Measures (Fee Diving Control Mechanism & Full Mark Approach)	3 Dec 2018	-
- Implement regulating action against manpower irregularity by deducting marks in technical assessment	3 Dec 2018	-

Appendix 1.1

Activities	Start	Finish
- Implement enhanced bidding mechanism <i>[Stage 1: For consultancies with Pre-tender estimate ≤ \$30M and having EOI submission or T&F Proposal invited on or after the date shown]</i> <i>[Full implementation: for consultancies having EOI submission or T&F Proposal invited on or after the date shown]</i>	29 Apr 2022 (Stage 1) 10 Oct 2022 (Full implementation)	-
- To exclude the manpower input under concurrent tenders in overloading checking. <i>[For consultancies having T&F Proposals to be closed on or after the date shown]</i>	23 Mar 2023	-
- To update the Checking report No. TEN-RPT-04 in the PWCRAR to report any outstanding first manpower input updating for on-going consultancies in overloading checking. <i>[For consultancies having T&F Proposals to be closed on or after the date shown]</i>	23 Sep 2023	-
3. Performance Monitoring and Management		
- Implement disciplinary action in respect of List of Consultants of EACSB, including removing from the List and debarring for re-admission.	3 Dec 2018	-
- Introduce a separate assessment aspect on consultants' professional conduct	1 Dec 2021	-
4. Enhancing Inter-Bureaux/ Departments Coordination		
- Expansion of function of DCRCs	3 Jul 2018	-
- Establishment of ICRC	3 Dec 2018	-
- Allow authorized access to PWCRAR and PWPLPR by DEVB Group of Departments	3 Jul 2018	-

Admission Criteria for Inclusion in the List**1. Specific Criteria for individual Service Category****A. Civil Infrastructure and Development (CE) Category**

Cat	Staff			History/Standard of Work		
	Group 1	Group 2	Group 3	Group 1	Group 2	Group 3
CE	(1) (+) P1 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P1 $\geq$ 3	P1 $\geq$ 10	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	Min. 2 years of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas); and (2) Satisfactory completion of either at least one agreement of value over HK\$10M or two agreements of value each over HK\$5M in relevant discipline in past 5 years (local or overseas). <u>Item (2) requirement is for new admission and change of group application only</u>

Note: (1) P1 stands for professional in General Civil Engineering.

B. Drainage and Sewerage (DS) Category

Cat	Staff			History/Standard of Work		
	Group 1	Group 2	Group 3	Group 1	Group 2	Group 3
DS	(1) (+) P1 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P1 $\geq$ 3	P1 $\geq$ 10 P3 $\geq$ 2 P6 $\geq$ 2	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	Min. 2 years of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas); and (2) Satisfactory completion of either at least one agreement of value over HK\$10M or two agreements of value each over HK\$5M in relevant discipline in past 5 years (local or overseas). <u>Item (2) requirement is for new admission and change of group application only</u>

Note: (1) P1, P3 & P6 stand for professional in “General Civil Engineering”, “Water Supply, Hydraulics and Hydrology” and “Environmental Studies” respectively.

C. Geotechnical and Slope (GE) Category

Cat	Staff			History/Standard of Work		
	Group 1	Group 2	Group 3	Group 1	Group 2	Group 3
GE	(1) P2 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	(1) P2 $\geq$ 3; and (2) Incl. min. 1 no. RPE(G) with 15 years post-graduation experience	(1) P2 $\geq$ 10; and (2) Incl. min. 1 no. RPE(G) with 15 years post-graduation experience	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	Min. 2 years of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas); and (2) Satisfactory completion of either at least one agreement of value over HK\$10M or two agreements of value each over HK\$5M in relevant discipline in past 5 years (local or overseas). <u>Item (2) requirement is for new admission and change of group application only</u>

Note: (1) P2 stands for professional in “Geotechnical Engineering/Geology”.

D. Roads and Associated Structure (HY) Category

Cat	Staff			History/Standard of Work		
	Group 1	Group 2	Group 3	Group 1	Group 2	Group 3
HY	(1) P1 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P1 $\geq$ 3	P1 $\geq$ 10 P4 $\geq$ 2 P5 $\geq$ 2	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	Min. 2 years of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas); and (2) Satisfactory completion of either at least one agreement of value over HK\$10M or two agreements of value each over HK\$5M in relevant discipline in past 5 years (local or overseas). <u>Item (2) requirement is for new admission and change of group application only</u>

Note: (1) P1, P4 & P5 stand for professional in “General Civil Engineering”, “Traffic Engineering/Transportation” and “Highway Engineering/Bridge” respectively.

E. Waterworks (WS) Category

Cat	Staff			History/Standard of Work		
	Group 1	Group 2	Group 3	Group 1	Group 2	Group 3
WS	(1) P3 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P3 $\geq$ 3	P3 $\geq$ 10	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	Min. 2 years of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas); and (2) Satisfactory completion of either at least one agreement of value over HK\$10M or two agreements of value each over HK\$5M in relevant discipline in past 5 years (local or overseas). <u>Item (2) requirement is for new admission and change of group application only</u>

Note: (1) P3 stands for professional in “Water Supply, Hydraulics and Hydrology”.

F. Electrical and Mechanical (EM) Category

Cat	Staff		History/Standard of Work	
	Group 1	Group 2	Group 1	Group 2
EM	(1) P8 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P8 $\geq$ 3	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas); and (2) Satisfactory completion of either at least one agreement of value over HK\$10M or two agreements of value each over HK\$5M in relevant discipline in past 5 years (local or overseas). <u>Item (2) requirement is for new admission and change of group application only</u>

Note: (1) P8 stands for professional in “Electrical”; “Mechanical”; “Building Services” or “Electronics”.

G. Environmental (EP) Category

Cat	Staff		History/Standard of Work	
	Group 1	Group 2	Group 1	Group 2
EP	(1) P6 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P6 $\geq$ 3	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	(1) Min. 2 years of practice in the discipline in past 5 years (local or overseas)

Note: (1) P6 stands for professional in “Environmental Studies”.

H. Town Planning (TP) Category

Cat	Staff		History/Standard of Work	
	Group 1	Group 2	Group 1	Group 2
TP	(1) P7 $\geq$ 1 with min. 2 years of post-qualification experience; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P7 $\geq$ 3 with min. 5 years of post-qualification experience	Min. 2 years of practice in the discipline in past 5 years (local or overseas)	(1) Min. 5 years of practice in the discipline in past 5 years (local or overseas)

Note: (1) P7 stands for professional in “Town Planning”.

I. Traffic and Transport (TT) Category

Cat	Staff		History/Standard of Work	
	Group 1	Group 2	Group 1	Group 2
TT	(1) P4 $\geq$ 1; and (2) All works-related professional staff $\leq$ 15 (Declaration required)	P4 $\geq$ 3	Min. 1 year of practice in the discipline in past 5 years (local or overseas)	(1) Min. 2 years of practice in the discipline in past 5 years (local or overseas)

Note: (1) P4 stands for professional in “Traffic Engineering/Transportation”.

2. General Criteria for all Service Categories

<u>Local Office</u>	<u>ISO 9000</u>	<u>Integrity Management</u> <u>(Refer to Remarks 12 and 13)</u>
<u>Yes</u>	<u>Yes</u>	<u>(1) Integrity Policy; and.</u> <u>(2) Integrity Training: a minimum of one hour of integrity training course to be attended by all listed professional staff members and one top management within a yearly period (from 1 February to 31 January of the following year). [Item (2) requirement is for renewal application only]</u>

Remarks for Appendix 2.1

1. Unless otherwise specified, all criteria specified in the tables above apply for both admission criteria for inclusion to the List and renewal criteria for maintaining on the List.

2. Both relevant public/private sector agreements will be counted for assessing history/standard of work for admission.

3. For agreements completed by The following principles should be adopted when assessing the duration of the applicant-as's project experience:

(a) If the applicant was a lead consultant / a participant or shareholder in the joint venture or in a claimed project which was an EACSB consultancy having the same Service Category as the application under consideration, the whole consultancy period would be taken as a sub-consultant the project duration.

(b) If the claimed project is a public works consultancy of different service category from the application under consideration, a non-government consultancy or a non-local consultancy; or if the applicant was a sub-consultant in a claimed project, only the duration of the part of the agreement completed by the applicant shall be accredited and shall be calculated in accordance with its share of works by value. The part completed by the applicant shall be services relevant to the services under the Service Category it is applying for. of the application under consideration should be counted. The applicant shall provide sufficient evidence to demonstrate the experience acquired as a participant or shareholder in the joint venture or as a sub-consultant from its completed part of the agreement.—

Agreements completed/participated by the associated companies of the applicant will not be counted.

2.4. Completion of agreement refers to the issue of letter of completion of the services. Completion of a significant project milestone in an agreement would also be accepted, provided the consultant could provide evidence that the consultant had satisfactorily completed a range of services which were relevant to the admission application to the satisfaction of the list management department.

3.5. "Value" refers to the client's estimated value of completed services and, in case of agreements completed by the consultant as a participant or shareholder in the joint venture or as a sub-consultant, the shared value of completed services undertaken by the applicant.

6. The following principles should be adopted when assessing the value of the applicant's completed project experience:

(a) If the claimed project is an EACSB consultancy having the same Service Category as the application under consideration, the lump sum fee / tendered total of the Prices of the consultancy can be taken as the value of the claimed project.

(b) If the claimed project(s) are government consultancies of different service category from the application, non-government consultancies or non-local consultancies, only the value of services relevant to the Service Category of the application under consideration should be taken as the value of the claimed project.

(c) Under both cases in (a) and (b) above, if the applicant was involved as a partner/participant of a joint venture, or a sub-consultant under the claimed project, only the portion of the value of the services completed by the applicant shall be counted. The applicant shall provide sufficient evidence to demonstrate the experience acquired from its completed part of the agreement.

(d) Agreements completed by the associated companies of the applicant will not be counted.

4.7. "Works-related professional staff" means professional staff input from which is directly related to works, for example, engineers, architects, surveyors, planners and landscape architects, etc. For the avoidance of doubt, the academic/professional qualification and experience requirements stipulated in the "Categories of Staff" section in Appendix C to DEVB TC(W) No. 2/2016 shall be referred to for the assessment of whether a staff member is a "professional" in this regard.

5.8. For the requirement of minimum number of year of practice, it should be the status as at the date of application.

6.9. For the requirement of Staff, the staff proposed by the consultant must be employed by the consultant on full time basis. For the avoidance of doubt, staff employed by the associated companies of the applicant will not be counted as staff of the applicant. A staff proposed by the consultant can be counted once for each combination of category and expertise provided the staff proposed can meet the qualification and experience required. For example, if a consultant applying for both CE and DS Categories employs, on full time basis, Staff A who possesses qualification and experience satisfying the requirement of civil engineering (P1), water supply, hydraulics and hydrology (P3) and environmental studies (P6), then Staff A can be proposed by

the consultant for satisfying the requirement of having one staff for P1, P3 and P6 each for DS Category and one staff for P1 for CE Category.

7.10. Referring to the implementation date stated in **Appendix 1.1**, to count as staff, individuals must be Hong Kong ID Card holders or residents with relevant working visa. In the interim, full-time overseas registered professional satisfying the requirements will also be accepted.

8.11. Qualification and experience requirements for P1 to P8 are shown below:

Expertise Concerned	Qualification and Experience Requirement
Professional in General Civil Engineering (P1)	(1) A corporate member of the HKIE (Civil Discipline) or equivalent
Professional in Geotechnical Engineering/ Geology (P2)	(1) Geotechnical Stream: a corporate member of the HKIE (Geotechnical Discipline) or equivalent or a Registered Professional Engineer (Geotechnical) (2) Geologist Stream: a holder of an university degree in earth sciences, geology or engineering geology or equivalent with at least 5 years relevant post-qualification experience
Professional in Water Supply, Hydraulics and Hydrology (P3)	(1) A corporate member of the HKIE (Civil Discipline) or equivalent with at least 1 year relevant post-qualification working experience in waterworks
Professional in Traffic Engineering/ Transportation (P4)	(1) A corporate member of the HKIE (Civil Discipline) or equivalent with at least 3 years relevant post-qualification experience in traffic and transport; or (2) A corporate member of the HKIE (Logistics and Transportation Discipline) or equivalent
Professional in Highway Engineering/Bridge (P5)	(1) A corporate member of the HKIE (Civil or Structural Discipline) or equivalent with at least 1 year relevant post-qualification working experience

Expertise Concerned	Qualification and Experience Requirement
Professional in Environmental Studies (P6)	(1) A corporate member of the HKIE (Environmental Discipline) or equivalent; or (2) A professional member of Hong Kong Institute of Qualified Environmental Professionals (HKIQEP), or equivalent; or (3) A holder of university degree or equivalent in a relevant discipline, such as environmental science, with 8 years relevant post-qualification experience (this alternative criterion will not be considered for existing and proposed P6 staff in any applications (e.g. admission, change of group and renewal exercise) to be approved on or after 1 Dec 2024 as per Appendix 1.1 of the Guidelines)
Professional in Town Planning (P7)	(1) A corporate member of the Hong Kong Institute of Planners or a Registered Professional Planner in Hong Kong, or equivalent
Professional in Electrical, Mechanical, Building Services, Electronics (P8)	(1) A corporate member of the Hong Kong Institution of Engineers (Electrical, Mechanical, Building Services or Electronics Discipline) or equivalent, or (2) A Registered Professional Engineer of Electrical, Mechanical, Building Services or Electronics disciplines.

12. A sample Integrity Policy is provided at Annex 4 of Appendix 2.6 of the Guidelines. Deviation from this standard template is not recommended. Under such circumstances, where a non-standard Integrity Policy is used, the applicant have to keep the relevant correspondence(s) with ICAC as record to facilitate checking by DCRC.

13. Top management refers to the President, Chairman, Chief Executive Officers, Director, Managing Director, Executive Director, or General Manager, etc. in the company. If the top management is also one of the listed staff members of the applicant, his/her integrity training record will be considered for both the top management and listed staff. As part of this new requirement, the following arrangement shall be adopted:

(a) For the reporting period from 1 July 2026 to 31 January 2027, the minimum integrity training requirement to be met by the existing listed consultants in the 4th biennial renewal exercise is as follows:

<u>Groups of Consultants</u>	<u>Minimum integrity training requirement</u>
<u>Group 1 and 2 Consultants</u>	<u>1 no. of Top Management + 1 no. of listed staff member</u>
<u>Group 3 Consultants</u>	<u>1 no. of Top Management + 3 nos. of listed staff members</u>

(b) For the subsequent yearly reporting period (i.e. from 1 February to 31 January of the following year), the minimum integrity training requirement to be met by the listed consultants is as follows:

<u>Groups of Consultants</u>	<u>Minimum integrity training requirement</u>
<u>All Groups</u>	<u>1 no. of Top Management + all listed staff members</u>

If a consultant is admitted to the List within 6 months before the end of a yearly period, it will not be required to fulfil the integrity training requirement for that particular reporting period.

List of Consultants of EACSB

Report on Office Audit

[Note: This is just a basic framework showing the details to be covered in the Report on Office Audit. DCRCs of the list management departments should refer to the latest template of the Report on Office Audit as may be promulgated by DEVB from time to time.]

PART I - CONSULTANT DETAILS

1. Name of Consultant :

2. Date of first included in the List :

3. Service Categories & Groups at the time of audit :

Cat.	CE	DS	GE	HY	WS	EM	EP	TP	TT
Group									

PART II – OFFICE VISITS AND STAFF INTERVIEWED

1. Date(s) of this audit :

2. Service Categories & Groups covered in this audit :

Cat.	CE	DS	GE	HY	WS	EM	EP	TP	TT
Group									

3. This audit is conducted by : *[Name of list management department]*

4. The last audit was made on :

5. Service Categories & Groups covered in the last audit :

Cat.	CE	DS	GE	HY	WS	EM	EP	TP	TT
Group									

6. Staff Interviewed for this audit

Name

Position

PART III – ITEMS AUDITED

Item	Compliance with Requirements			Remarks
	Yes	No.	N/A	
1. Staff				
2. History/standard of works				
3. Local Office				
<u>4.</u> ISO 9000 Certificate				
<u>4.5.</u> <u>Integrity Management</u>				

PART IV – DETAILS OF NON-COMPLIANCE AND OTHER OBSERVATION

[Finding of the audit to be included.]

PART V – GENERAL REMARKS, CONCLUSIONS AND RECOMMENDATIONS

The consultant is / is not eligible to be admitted / remain in Group [] under [] Category of the List.

[Other general remarks, conclusions and recommendations can be added.]

Audited by:

Signed: _____

Name of Auditor: _____

Post: _____

Date: _____

Signed _____

Name of Auditor: _____

Post: _____

Date: _____

Note on Items to be checked:

Details of the checking for each item is stated below for reference only, audit officers shall decide on the relevant aspects to be checked or include other aspects as appropriate.

Item	Details of the Checking
1. Staff	(a) Whether the staff appeared in the consultant's application/ EACSB's record or staff claimed to have provided service for the Government could be found in the office at the time of audit and, if not, whether his/her working space could be found; (b) Whether the staff concerned could present relevant and valid academic /professional certificates, if there is any doubt; (c) Whether the consultant could present proof for full-time employment status of the staff concerned (e.g. payrolls, bank statements or MPF records); (d) Whether the staff concerned could present HKID Card / working visa; (e) Whether number of works related professional is below 15 (for Group 1 consultant only); (f) Whether there is prima facie staff at any ranks/grades working for the consultant's associated companies; and (g) If the consultant's application or EACSB's record need updating, whether the consultant's qualified professional staff resource has prima facie been reduced to below the minimum number required for the particular Group.
2. History/ standard of works	(a) Whether the consultant could present evidence of practicing in relevant discipline for the required number of years in past 5 years as at the date of audit and/or evidence of undertaking assignments for satisfying the admission criteria.
3. Local Office	(a) Whether local office is of reasonable size, suitably furnished and adequately equipped with appropriate drafting and computing facilities; and (b) Whether the consultant could present valid Business Registration Certificate.
4. ISO 9000 Certificate	<u>(a)</u> Whether the consultant could present a valid ISO 9000 Certificate covering the Service Category(ies) applied.

<u>5. Integrity Management</u>	(a) <u>Whether the consultant has maintained a valid and effective integrity policy.</u> (b) <u>Whether the consultant has maintained proper attendance records of integrity training for each of the listed Staff and a member of its top management within the year. <i>[For renewal application / quarterly audit for listed consultants only]</i></u>
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Classification of Assignment Complexity

	Complex Assignments	Normal Complexity Assignments
Civil Infrastructure & Development (CE)	● Major civil infrastructures including ◆ transport networks and structures; ◆ boundary control point; ◆ site formation works; ◆ port works/ reclamations; ◆ construction and demolition material handling facilities; and ◆ related ancillary works ● Feasibility Study / Planning & Engineering Study for major developments requiring multi-disciplinary inputs / full consideration of interfacing / environmental and cultural heritage issues	● Minor civil infrastructures including ◆ local road networks and structures; ◆ uplifting / beautification / revitalization works and cycle track construction with lesser site constraints / technical difficulties; ◆ site formation works with lesser site constraints / technical difficulties; ◆ port works with lesser site constraints / technical difficulties; and ◆ related ancillary works ● Feasibility Study for minor development projects
Drainage and Sewerage (DS)	● Drainage and sewerage projects involving sewage treatment works, major pumping stations, caverns, tunneling works, major trenchless works, major dry weather flow interceptors, retention/detention facilities, eco-hydraulics/river revitalization, major sustainable drainage system, or requiring multi-disciplinary inputs ● Drainage / sewerage master plan study ● Designated projects under EIA Ordinance ● Feasibility study	● General drainage and sewerage projects such as pipe laying works, village sewerage not involving EIA study and/or sewage treatment works
Geotechnical & Slope (GE)	● Natural Terrain Hazard Study / Mitigation ● Tunnel and Cavern ● Underground Development	● Upgrading of man-made slopes ● Management and Operation of Public Works Regional Laboratories ● Slope Safety Screening

Appendix 2.3

	Complex Assignments	Normal Complexity Assignments
	● Landslide Investigation ● Development of new standards ● Mines & Quarries	● Maintenance of man-made slopes
Waterworks (WS)	● Review on water supply strategy including topics on assessment on rainfall yield, water gathering ground, utilization of various water supply sources, water demand forecast. ● Projects involving major and intelligent water supply network including raw water supply from Dongjiang, interconnection of water treatment works supply zones, strategic planning of Pressure Management Areas (PMA) and District Management Areas (DMA) ● Water treatment facilities adopting advanced and contemporary processes such as seawater desalination plant, ozone and UV disinfection. ● Safety review of impounding reservoirs and large service reservoirs ● Consultancy studies and services involving cavern formation	● Design and laying of water mains for local supply zones ● Pumping stations and service reservoirs ● Improvement to catch water system ● Safety review of service reservoirs
Roads & Associated Structures (HY)	● Major road networks, including expressway, trunk road, primary distributor road or district distributor road ● Significant highway structures, including tunnel, flyover, subway, railway bridge and noise barriers/enclosures spanning over carriageway ● Designated projects under EIA Ordinance ● Feasibility study	● Minor road network, including local road and rural road ● Noise barriers not spanning over carriageway ● Simple highway structures, including bridge and subway without geometric, geotechnical or hydraulic complications
Electrical & Mechanical	● Major E & M projects ● Complex projects involve input from	● Ordinary E & M design projects ● Normal E & M equipment

Appendix 2.3

	Complex Assignments	Normal Complexity Assignments
(EM)	professionals of multi-discipline ● Projects that require new or special equipment, installation or design input	replacement or improvement projects ● Ordinary projects involve professionals of not more than 3 disciplines
Environmental (EP)	● Territory-wide planning studies e.g. master plan of infrastructure ● Strategic / regional environmental facilities e.g. landfill, RTS, waste treatment facility ● Pilot study involving works on environmental facilities ● Scientific / technical or engineering studies / projects require multi-disciplinary inputs ● Strategic / regional / large scale project-based environmental monitoring and audit / impact assessment ● Pilot specialist researches / projects	● Scientific / technical or engineering studies / projects not involving multi-disciplinary input ● Small scale project-based / local environmental monitoring and audit / impact assessment ● Local / community environmental facilities e.g. AQMS, CGS
Town Planning (TP)	● Regional/territorial studies ● Planning & engineering studies ● Special topical planning/urban design study ● Planning studies involving multi-disciplines	● Straightforward planning studies ● Site specific/area or district-based land use/urban design and landscaping/ planning/review or conceptual studies not involving multi-disciplines
Traffic & Transport (TT)	● Major traffic study and transport planning involving traffic impact assessment (requiring the application of transport model) ● Traffic/ transport related Feasibility Study ● Area Traffic Control and CCTV works ● Intelligent Transport Systems ● Large Scale Traffic Surveys such as Annual Traffic Census & Travel Characteristic Survey	● Minor traffic study and transport planning involving traffic review or traffic impact assessment (not requiring the application of transport model) ● Minor scale of traffic / public transport/ parking surveys, etc. ● Cycle tracks and cycle parking facilities

**Declaration for Bidding Consultancies with Estimated Lump Sum Fee not exceeding Group 1 tendering limit
(for use in consultancy not under the listed Service Category)**

1. I/we hereby declare that the total number of the works-related professional staff, for example, engineers, architects, surveyors, planners and landscape architects, of my/our firm(s) does not exceed 15.
2. I/we understand that the declared information is used for the purposes of assessing my/our eligibility for bidding and award of the consultancy assignment in this consultant selection exercise and is subject to verification checking. I/we agree that the information provided in this declaration may be disclosed to the third party for purpose of verification.
3. I/We understand that any misrepresentation in the information that I/we provide on this declaration form may result in the eligibility for bidding and award of the consultancy assignment being jeopardized and/or legal consequences against me/us.

(Name of the Consultants)	
(Name of the Signatory)	
(Position of the Signatory)	
(Date)	

Engineering and Associated Consultants Selection Board
Biennial Renewal Exercise
Reply Slip

To: Secretary for EACSB

(Attn: XXXXXXXXXX)

16/F, Civil Engineering and Development Building,

101 Princess Margaret Road, Homantin, Kowloon

Please put a tick in the appropriate box.

Provide supplementary sheet if necessary.

- ☐ I / We would like to confirm that the ~~admission~~ records are still valid and we satisfy the admission criteria in the Guidelines promulgated under DEVB TC(W) No. 5/2018; and propose no further update to the ~~admission~~ records for the purpose of biennial renewal exercise.

- ☐ I / We propose the following change(s) in our ~~admission~~ records:

- ☐ Change of Groups

Service Category	CE	DS	GE	HY	WS	EM	EP	TP	TT
Existing Group No.									
Proposed Group No.									

- ☐ Update of ISO 9000 Certification
- ☐ Update of Business Registration
- ☐ Update of organization chart
- ☐ Update of office layout plan
- ☐ Update of other information in the Consultant Profile Form¹

¹ Other information updated shall be highlighted in yellow in the profile form. Information updated without a clear indication in the form may not be considered.

- ☐ Addition/deduction/amendment of staff information, [with supporting documents](#)
- ☐ Addition/deduction/amendment of consultant's experience, [with supporting documents](#)
- ☐ [Update of Integrity Policy](#)
- ☐ [Attendance records of integrity trainings](#)

Signature:

Name:

Post:

Company:

Date:

Guidelines for Setting Up of Integrity Management System (“IMS Guide”)

Introduction

This Integrity Management System (IMS) can be used by all organizations. The purpose of publishing the guidelines for setting up of IMS is to provide a management system framework and recommendation of good practices to support organizations in managing integrity related issues.

All consultants on the List shall be responsible for the good behaviour of their employees, agents and sub-consultants in relation to any consultancy appointments for public works projects under its control. Integrity is one of the admission criteria for inclusion in the List according to Appendix 2.1 of this Guideline. Consultants can make use of this Guide for developing their IMS to fulfill the admission criteria.

Any consultant who has been removed from the List due to integrity-related misconduct may apply for re-admission to the List again after the debarment period. In this connection, the consultant is required to submit a proof of (i) successful completion of integrity training course, and (ii) satisfactory enhancement(s) of its IMS as endorsed by an independent auditor (proposed by the consultant and accepted by the DEVB) together with its application.

The remainder of this IMS Guide has the following three sections:

- Section A: outlines the detailed requirements of an IMS;
 - Section B: describes the basic standard of conduct expected of all directors and staff of the organization; and
 - Section C: describes the basic interpretation of some of terms and requirements mentioned in Section A.
-

Section A: System Requirements

This Section outlines the detailed requirements of an IMS. The word ‘shall’ is used to indicate mandatory requirements.

1.0 Management Responsibility

- 1.1 The top management shall establish documented Integrity Policy ^{Section C(a)} for the organization.
- 1.2 The organization shall ensure the policy includes a commitment to comply with applicable legal requirements, anti-bribery, anti-fraud and anti-collusion.
- 1.3 The organization shall take action to ensure the defined policy is well communicated and understood within the organization, as well as with their business partners ^{Section C(b)}.
- 1.4 The organization shall appoint a member of management ^{Section C (c)} to ensure the effective implementation of the IMS.

2.0 Training and Awareness ^{Section C (d)}

- 2.1 The organization shall provide integrity training to all staff within the organization.
- 2.2 The organization shall establish and maintain procedures to ensure that its staff are aware of the organization’s IMS, as well as the defined Code of Conduct in Section B.

3.0 Planning for Integrity Risk Assessment and Treatment ^{Section C (e,f)}

- 3.1 The organization shall establish and maintain procedures for the ongoing identification, analysis, evaluation of integrity risks, in the areas including but not limiting to:
 - 3.1.1 Bribery
 - 3.1.2 Compliance with Laws of Hong Kong and Other Jurisdictions
 - 3.1.3 Conflict of interest
 - 3.1.4 Use of company assets
 - 3.1.5 Confidentiality of information
 - 3.1.6 Outside Employment
 - 3.1.7 Relationship with suppliers, contractors and customers
- 3.2 The organization shall establish and maintain risk treatment plans to document how the chosen treatment options will be implemented. The information provided in the treatment plans should include:

- 3.2.1 The reasons for selection of treatment options
- 3.2.2 Those who are responsible for implementing the plan
- 3.2.3 Proposed actions and contingencies
- 3.2.4 Resource requirements
- 3.2.5 Reporting and monitoring requirements
- 3.2.6 Timing and schedule

4.0 Implementation of the Risk Treatment Plans Section C (g)

- 4.1 The organization shall establish suitable documentation (i.e. policies, procedures, instructions, forms) to support the implementation of the risk treatment plan.
- 4.2 The organization shall implement the defined risk treatment plans and maintain suitable records for demonstrating its effective implementation.

5.0 Monitoring and Review Section C (h)

- 5.1 The organization shall plan in both monitoring and review as part of the integrity management process and involve regular checking or surveillance (i.e. periodic or ad hoc).
- 5.2 The organization shall apply suitable methods for monitoring the implementation of risk treatment plan.
- 5.3 The organization shall review the performance of the implemented risk treatment plan, to ensure that controls are effective and efficient in both design and operation.
- 5.4 The organization shall maintain monitoring and review records.
- 5.5 The organization shall analyze and learn lessons from events, changes, trends, successes and failures for obtaining further information to improve integrity management.
- 5.6 The organization shall timely inform the DEVB of any acts of suspected misconduct or misconduct committed by their directors and staff.

6.0 Internal Audit

- 6.1 The organization shall establish and maintain an audit programme and procedures for carrying out periodic IMS audits, in order to:
 - 6.1.1 Determine whether or not the IMS is implemented and maintained properly, and is effective in meeting the requirements for the IMS.
 - 6.1.2 Review the results of previous audits and provide information to management.

7.0 Management Review and Improvement Action

7.1 The top management shall review the achievement of the policy at regular intervals for identifying any improvement action needs. Management review records shall be maintained.

Section B: Code of Conduct – Guidance Document

This Section describes the basic standard of conduct expected of all directors¹ and staff of the organization. The guidelines given in each of the aspects are useful to help organization to understand the basic intents. Organization shall consider them along with their business nature to determine the actual risks when developing integrity management plans.

1.0 Prevention of Bribery

1.1 Prevention of Bribery Ordinance

1.1.1 Under the Prevention of Bribery Ordinance (the Ordinance), any director or staff member who, without the permission of his employer or principal (i.e. the Company), solicits or accepts an advantage as a reward or inducement for doing any act or showing favour in relation to the latter's business, commits an offence. The person offering the advantage also commits an offence.

(The relevant provisions of Section 9 of the Ordinance and the definition of “advantage” are detailed at **Annex 1 of this appendix.**)

1.2 Solicitation & Acceptance of Advantage

It is the Company's policy that unless special permission from the approving authority is given, directors and staff (hereafter referred as “personnel” should not solicit or accept any advantage for themselves or others, from any person, company or organization having business dealings with the Company; or from their subordinates; or when the advantage will lead to a conflict of interest of the personnel in discharging his/her official duties. However, they may accept (but not solicit) the following advantages when offered by these offerors on a voluntary basis:

- (a) Gifts or souvenirs of nominal value for advertising or promotional purpose, or given on festive or special occasions, subject to a maximum limit² of \$_____ in value; or
- (b) discounts or other special offers given to them as customers, on terms and conditions equally applicable to other customers in general; or

1.2.1 Gifts or souvenirs presented to personnel in official functions, by others having business

¹ For sole proprietor and partnership, please amend accordingly.

² As a general guide, the recommended maximum limit is HK\$ \$250.

dealings with the Company, are deemed as offers to the Company which retention requires special permission given by the approving authority.

1.2.2 A special permission mentioned paragraph 1.2.1 and 1.2.2 must be obtained using Form A (at **Annex 2 of this appendix**) within 14 days upon the acceptance of gifts or souvenir or other advantages, beyond which such permission is deemed as invalid.

1.2.3 However, all personnel should decline an offer of advantage if acceptance could affect his/her objectivity in conducting the Company's business or induce him/her to act against the interest of the Company, or acceptance will likely lead to perception or allegation of impropriety.

1.2.4 If the personnel are required to act on behalf of a client when conducting the Company's business, they should also comply with any additional restrictions on acceptance of advantage that may be required by the client. For example, consultants' employees, agents and sub-consultants conducting business in connection with public works consultancy agreements are prohibited from acceptance of advantages in the work context.

1.3 Offer of Advantage

1.3.1 All personnel are prohibited from offering advantages to any director or staff of another company or organization, for the purpose of influencing such person or company in any dealings, or any member or staff of a government department or public body while having business dealings with the latter, whether directly or indirectly through a third party, when conducting the Company's business.

1.4 Entertainment

1.4.1 As defined in Section 2 of the Ordinance, "entertainment" refers to food or drink provided for immediate consumption on the occasion, and any other entertainment provided at the same time. Although entertainment is an acceptable form of business and social behaviour, all personnel should avoid accepting overly lavish or frequent entertainment from persons with whom the Company has business dealings (e.g. suppliers or contractors) or from his/her subordinates to avoid placing himself/herself in a position of obligation.

1.4.2 All personnel are also not allowed to offer frequent or excessive entertainment to government officers.

1.5 Records, Accounts and other Documents

1.5.1 All personnel should ensure that all records, receipts, accounts or other documents they submit to the Company, give a true representation of the events or business transactions as shown in the documents. Intentional use of documents containing false information to deceive or mislead the Company, regardless of whether there is any gain or advantage involved, may constitute an offence under the Ordinance.

2.0 Compliance with laws of Hong Kong and in Other Jurisdictions

2.1 All personnel must comply with all local laws and regulations when conducting the Company's business, and also those in other jurisdictions when conducting business there.

3.0 Conflict of Interest

3.1 All personnel should avoid any conflict of interest situation (i.e. situation where their private interest conflicts with the interest of the Company) or the perception of such conflicts. Private interest covers both pecuniary and non-pecuniary interest. They should not misuse their position or authority in the Company to pursue their own private interests which include both financial or personal interests and those of their family members, relatives or close personal friends. When actual or potential conflict of interest arises, the personnel should make a declaration to the approving authority using Form B (**Annex 3 of this appendix**).

3.2 Some common examples³ of conflict of interest are described below but they are by no means exhaustive:

- (a) Personnel involved in a procurement exercise is closely related to or has financial interest in the business of a supplier who is being considered for selection by the Company.
- (b) Personnel involved in supervising the works of a contractor is the director of the contractor under his supervision.
- (c) One of the candidates under consideration in a recruitment or promotion exercise is a family member, a relative or a close personal friend of the personnel involved

³ To assist the personnel in judging whether or not a conflict of interest exists, consultants are encouraged to provide examples of conflict of interest which are very likely to happen in their daily operation. The examples listed here are for reference by consultants, the consultants is required to add, delete or modify the examples to suit the operational needs.

in the process.

(d) A director of the Company has financial interest in a company whose quotation or tender is under consideration by the Board of directors.

(e) A staff member (full-time or part-time) undertaking part-time work with a contractor whom he is responsible for monitoring.

4.0 Use of Company Assets

4.1 Personnel in charge of or having access to any Company assets, including funds, property, information, and intellectual property, should use them solely for the purpose of conducting the Company's business. Unauthorized use, such as misuse for personal gain, is strictly prohibited.

5.0 Confidentiality of Information

5.1 All personnel should not disclose any classified information of the Company without authorization or misuse any Company information (e.g. unauthorized sale of the information). Those who have access to or are in control of such information, including information in the Company's computer system, should at all times take security measures to protect the information from unauthorized disclosure or misuse. Special care should also be taken in the use of any personal data, including directors', staff's and customers' personal data, to ensure compliance with the Personal Data (Privacy) Ordinance.

6.0 Outside Employment

6.1 Any full time staff who wish to take up employment outside the Company, must seek the prior written approval of the approving authority. The approving authority should consider whether the outside employment would give rise to a conflict of interest with the staff's duties or the interest of the Company.

7.0 Relationship with Suppliers, Contractors and Customers

7.1 Gambling

7.1.1 Directors and staff are advised not to engage in frequent gambling activities (e.g. mahjong) with persons having business dealings with the Company.

7.2 Loans

7.2.1 Directors and staff should not accept any loan from, or through the assistance of, any individual or organization having business dealings with the Company. There is however no restriction on borrowing from licensed banks or financial institutions.

8.0 Reporting Mechanism

8.1 Any enquiries about the Company's integrity policy / requirements, and any reports of possible breaches of that or other company policies/rules should be made to (please specify the name & post). All these reports shall be handled promptly in strict confidence.

8.2 In cases of suspected corruption or other criminal offences, a report should be made to the ICAC or the appropriate law enforcement agency / authority promptly.

8.3 It is the Company's policy that retaliation against any personnel who, in good faith, makes the above reports or who participates in the inquiry / investigation of the allegation is strictly forbidden.

9.0 Compliance

9.1 It is the responsibility of all personnel to understand and comply with these integrity requirements. Supervisors should ensure that their subordinates understand and comply with this. Any personnel in breach of these requirements will be subject to internal disciplinary action as appropriate, including termination of appointment.

[The Company may wish to include other guidelines on the conduct required of personnel in their dealings with suppliers, contractors, customers, and other business partners as appropriate to specific trades.]

Section C: Interpretation of Terms and Requirements

This Section describes the basic interpretation of some of terms and requirements mentioned in Section A. This Section should be read in conjunction with Section A and Section B of this document.

- (a) The Integrity Policy should include a commitment to comply with applicable legal requirements, anti-bribery (e.g. prohibition from offering, soliciting and accepting advantage), antifraud (e.g. prohibition of false accounting) and anti-collusion (e.g. prohibition from participating in tender rigging). The Integrity Policy should be formally endorsed and signed by the top management to demonstrate their determination. A sample is provided at **Annex 4 of this appendix**.
- (b) Business partners include clients, sub-consultants, agents, contractors, subcontractors and suppliers. Organization should also impose the Integrity Policy on its sub-consultants, agents, contractors and suppliers who work on its behalf through contractual means, where practicable.
- (c) The appointed member should be a senior staff delegated with adequate and necessary financial and administrative authorities, and directly accountable to the top management.
- (d) The organization should lay down a training plan or programme to meet with the training need of all its staff including the new recruits. Also, the organization should oblige all its staff to strictly observe the provisions and requirements set out in the IMS through their employment contacts or other means, as appropriate.
- (e) The organization should conduct integrity risk assessments with respect to its different work procedures taking into account the nature, scale and location of its business. The work procedures should include, among others, procurement, staff administration and project management procedures.
- (f) The organization should establish a set of compliance checklists on various work procedures, taking into account the risks identified and making reference to those ICAC Practical Guides/Pamphlets which can be downloaded from the ICAC's website:
http://www.hkbedc.icac.hk/english/publications/practical_guides.php
- (g) The organization should put in place an internal reporting system, including a designated hotline, which enables its staff to ask questions in relation to the IMS, and bring to notice of the management, such as the appointed member, any potential breaches of the IMS or risky conducts in performing their duties. Any enquiries received and follow-up actions taken by the management should be properly recorded to facilitate future audits.
- (h) The organization should lay down a disciplinary mechanism, setting out the disciplinary

process and details of follow-up actions to be taken against its staff for any non-compliance with the IMS.

- (i) For the purpose of seeking lifting of suspension or re-admission to the List, following its suspension from bidding for new agreements or removal from the List by DEVB due to integrity-related issues, a consultant shall review and enhance its IMS to address the deficiencies of its IMS and then engage an independent auditor (proposed by the consultant and accepted by DEVB) to endorse the satisfactory enhancements of the IMS by the consultant to address the deficiencies concerned. In connection with the independent audit, the auditor shall prepare a report which should include:

- Introduction
 - Background information
 - Objectives
 - Assumptions and limitations
 - Assessment Methodology
 - Assessment approach
 - Assessment checklist
 - Assessment Process
 - Description of the process and activities performed
 - Assessment Result
 - Recommendations (if any)
-

Annex 1: Extracts of the Prevention of Bribery Ordinance

Section 9:

- (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business, shall be guilty of an offence.
- (2) Any person, who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business, shall be guilty of an offence.
- (3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document –
- (a) in respect of which the principal is interested; and
 - (b) which contains any statement which is false or erroneous or defective in any material particular; and
 - (c) which to his knowledge is intended to mislead the principal,
- shall be guilty of an offence.
- (4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).
- (5) For the purpose of subsection (4) permission shall –
- (a) be given before the advantage is offered, solicited or accepted; or
 - (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance, and for such permission to be effective for the purpose of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 2:

“Advantage” means:

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
 - (b) any office, employment or contract;
 - (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
 - (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
 - (e) the exercise or forbearance from the exercise of any right or any power or duty; and
 - (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e),
- but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

“Entertainment” means:

The provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

Section 19:

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

Annex 2: Application for Permission to Accept Gifts, Souvenirs and other Advantages**Application for Permission to
Accept Gifts, Souvenirs and other Advantages****Part A – To be completed by Receiving Staff[^]**To : (Approving Authority)⁴ via (supervisor of the Requesting Staff)

I wish to apply for permission to accept the following gifts / souvenirs / advantage that are offered to me on (date of acceptance).

(Please specify the gifts/souvenirs/other Advantages and the estimated value(s))

Description of Offeror :

Name & Title of Offeror : _____

Company : _____

Relationship : _____

Occasion on which the Gift / Souvenirs /

Advantages was / is to be received : _____

(Date)

(Name of Requesting Staff) (Title / Department)

[^] All application must be made within 14 days upon acceptance.**Part B – To be completed by Approving Authority**

To : (Requesting Staff) via (supervisor of the Requesting Staff)

Please be informed that your application is: (Please tick as appropriate)

☐ **Approved** Justification : _____☐ **Not Approved**, and you should take the follow-up action as below:

<u>Follow-up Action</u>	<u>Remark</u>
☐ Retain for Display / as a Souvenir in the Office	
☐ Share among the Office	
☐ Reserve as Lucky Draw Prize at Staff Function	
☐ Donate to a Charitable Organization	
☐ Return to Offeror	
☐ Others (please specify) :	

(Date)

(Name of Approving Authority) (Title)

⁴ The consultant is required to set a schedule of approving authority commensurate to the requesting staff, e.g. Department Head, Division Head.

Annex 3: Declaration and Management of Conflict of Interests.**Declaration and Management of
Conflict of Interest****Part A – Declaration (To be completed by Declaring Staff)**

To : (Approving Authority)⁵ via (supervisor of the Declaring Staff)

I would like to report the following existing actual/potential* conflict of interest situation arising during the discharge of my official duties:-

<u>Persons/companies with whom/which I have official dealings and/or private interest</u>
<u>My relationship with the persons/organisation(s) (e.g. relative)</u>
<u>My contact with the person(s)/organisation(s)</u> <i>(Please state the frequency of contact and the usual occasions of contact, etc.)</i>
<u>Brief description of my duties which involved the person(s)/organisation(s)</u> <i>(e.g. handling of tender exercise)</i>
<u>File reference, if any, of the mentioned duties</u>

(Date)

(Name of Declaring Staff) (Title / Department)

* Delete as appropriate

⁵ The consultant is required to set out a schedule of approving authority commensurate to the requesting staff, e.g. Department Head, Division Head.

Part B – Approval *(To be completed by Approving Authority)*

To : (Declaring Staff) via (supervisor of the Declaring Staff)

Part B(i) – In respect of the declaration in Part A of this form, it has been decided that:

(Please tick as appropriate)

☐ The declaration as described in Part A is noted. You are allowed to continue handling the work as described in Part A, provided that there is no change in the information declared above.

☐ You may continue to handle the work as described in Part A, but an independent officer would be recruited / appointed* to participate in, oversee or review part or all of the decision making process (e.g. task another officer with the required expertise to provide objective assessment on the matter).

Details:

☐ You are relieved of your duty as described in Part A entirely or partially* (e.g. prohibit from handling the specific part/duty that you have conflict, withdraw from discussion / meeting / decision-making on a specific issue/cause, restrict from accessing to the relevant information, redeploy to handle other tasks while the duty described in Part A will be taken up by another staff)

Details:

☐ Others (please specify) :

Part B(ii) – The justification(s) for the measure(s) as described in Part B(i) above is/are:

(Factors of consideration including the materiality of the conflict, link between the conflict and the matter in question, and any possible negative public perception over the conflict/incident.)

In all cases, please be reminded that you should not disclose any privileged information of the subject matter to the person(s)/organisation(s) concerned and should further report if there are changes in circumstances necessitating reporting. If you are allowed to continue to perform the duty, you are reminded to exercise your duty in a fair and impartial manner.

(Date)

(Name of Approving Authority) (Title)

Part C – Keeping of Records *(To be completed by the Declaring Staff)*

To : (Designated Staff for keeping the completed form) via (Approving Authority)

I noted the decision in Part B. The completed form is for your retention please.

(Date)

(Name of Declaring Staff) (Title / Department)

* Delete as appropriate.

Annex 4: Sample Integrity Policy

Point to Note:

- (a) Consultant in the List shall maintain an Integrity Policy (“the Policy”) to state a construction company’s commitment to integrity and anti-corruption practices, as well as their policy in respect of key integrity issues (including solicitation, acceptance and offer of advantages, managing conflict of interest, etc.). The Policy shall be endorsed and signed by the top management of a consultant.
- (b) The sample Policy provided at this annex is for reference. The elements in the sample shall form the basis for consultant to devise their company rules / guidelines on integrity such as by way of issuing a Code of Conduct. Deviation from this standard template is not recommended. In any case, the standard and requirements adopted by the consultant shall be on par with, or not inferior to that of the sample⁶.
- (c) A consultant shall ensure that the Policy is made known to all their company personnel, as well as business counterparts (e.g. clients, main contractors, subcontractors, suppliers and other consultants, etc.) by various means such as by publicising the Policy on the company’s website, issuing letters, or incorporating the requirements in the employment contracts, consultancy agreements or construction / supplier contracts. A consultant shall render full assistance to law enforcement agencies in the investigation of criminal offences.

⁶ ICAC’s Corruption Prevention Advisory Service (CPAS) is a specialised unit in the Corruption Prevention Department of ICAC which provides free and confidential corruption prevention advice to private organisations on system control and integrity management matters. For reference in formulating or reviewing integrity policies, consultants may refer to CPAS’ web portal at <https://cpas.icac.hk/EN/> for corruption prevention resources, or contact CPAS by phone at 2526 6363 or by email at cpas@cpd.icac.org.hk if corruption prevention advice on relevant integrity management matters is required.

Sample Integrity Policy

(name of Consultant) (“Company”) prohibits all forms of bribery and corruption and is committed to integrity, honesty and anti-corruption practices in doing business. All sole proprietor / partners / directors* and staff (hereafter referred as “personnel”) must abide by this integrity policy and the associated company rules / guidelines / code of conduct*.

- Our Company and all personnel have to observe the Prevention of Bribery Ordinance (Cap. 201) and Competition Ordinance (Cap. 619) and other integrity-related laws in Hong Kong Special Administrative Region.
- Our Company does not allow our personnel to solicit or accept any advantages⁷ from any individuals or organizations having business dealings with our Company unless permission is granted for the acceptance, and such permission shall be in line with anti-corruption and integrity principles.
- Our Company prohibits all personnel from offering advantages to any staff or member of a government department or public body while having dealings of any kind with them. We also prohibit all personnel from offering advantages to any individual of organizations, whether directly or indirectly, for influencing them in any dealing, when conducting business with our Company.
- Our Company’s personnel are required to avoid accepting lavish or frequent entertainment from others having business dealings with our Company.
- Our Company requires all personnel to avoid any conflict of interest situation, or the perception of such. If unavoidable, the personnel concerned should make a declaration to the approving authority who should decide on actions for mitigating the conflict.
- Our Company owes fiduciary duties to clients and shall during the term of any agreements notify clients in writing and keep clients notified of all or any facts which may reasonably be considered to give rise to a situation where the financial or other interest of our Company, our associated companies, our associates or associated persons or any of our sub-consultants, conflict or compete, or may conflict or compete, with our Company’s duties to clients.
- Our Company prohibits all personnel from disclosing any classified information without authorization, and misusing any information of our Company or clients.
- Our Company has an internal reporting mechanism for our personnel to enquire matters relating to integrity and report possible breaches of integrity requirements. Our Company handles these reports promptly, prudently and in strict confidence.
- Our Company strictly forbids retaliation against any personnel who, in good faith, reports possible breaches of integrity requirements or who participates in the inquiry / investigation of the allegation.
- Any personnel in breach of integrity requirements will be subject to internal disciplinary action, including termination of appointment and / or referral to relevant law enforcement agencies. Our Company will render full assistance to law enforcement agencies in the investigation of criminal offences.
- Our Company is committed to partner with ethical business counterparts / entities / organisations who share the same value and commit to the same integrity standard.

Signature(s) of Top Management: _____

Date: _____

* delete as appropriate

⁷ Advantage is defined under the Prevention of Bribery Ordinance (Cap. 201) covering any gift, loan, fee, reward, commission, office, employment contract, discharge from obligation/liability/loan, service and favour, exercise or forbearance from exercise of right/power/duty, etc.

Sample Integrity Policy (Chinese Version)誠信政策範本

(顧問公司名稱) (下稱「本公司」) 禁止一切形式的賄賂及貪污行為，秉持廉潔守正、誠實正直的精神經營業務，嚴禁貪污。所有獨資經營者／合夥人／董事*及員工(下稱「人員」)必須遵守本誠信政策及相關的公司規則／指引／行為守則*。

- 本公司及其人員必須遵守香港的《防止賄賂條例》(第 201 章)、《競爭條例》(第 619 章)，及香港特別行政區其他與誠信相關的法例。
- 本公司不容許人員向與本公司有業務往來的人士或機構索取利益⁸或接受由該等人士或機構提供的利益。假如事先獲得批准接受有關利益，則作別論，而此類批准應符合反貪污及誠信原則。
- 本公司禁止所有人員在與政府部門或公共機構進行任何事務往來時，向其職員或成員提供利益，以及禁止所有人員向任何機構的成員提供利益(不論是直接或經第三者間接進行)，意圖影響他們與本公司進行業務往來時的決定。
- 本公司屬下人員必須避免接受與本公司有業務往來的單位所提供的奢華或頻密款待。
- 本公司要求所有人員避免陷入利益衝突的情況，或被視為有利益衝突的情況。如無法避免，有關人員須向審批人員申報，由其決定應採取什麼行動緩解情況。
- 本公司對客戶負有受信責任及須在履行任何合約期內確保本公司、任何聯繫公司、合夥人或有關連人士或分判顧問公司，以書面方式向客戶通知及告知所有或任何會合理地被視為有個人／財務利益與本公司於合約的職責之間的任何衝突或潛在衝突的情況。
- 本公司禁止所有人員在未經授權下披露任何機密資料，或不當使用公司或客戶資料。
- 本公司設有內部通報機制，供人員查詢有關誠信的事宜，並舉報可能違反誠信規定的個案。本公司接獲舉報後會從速及謹慎地處理，而且絕對保密。
- 本公司嚴禁向真誠地舉報可能違反誠信規定個案的人員，或參與有關指控的研訊／調查人員報復。
- 任何違反誠信規定的人員將面對內部紀律處分，包括終止聘用及／或轉交相關執法機關處理。本公司會於刑事犯罪調查時向執法機關提供全面協助。
- 本公司致力與價值觀相同、秉持同等誠信標準和重視商業道德的伙伴／企業／機構合作。

管理層簽署：_____

日期：_____

* 刪去不適用的部分。

⁸ 根據《防止賄賂條例》(第 201 章)，利益的定義涵蓋任何饋贈、貸款、費用、報酬、佣金、職位、僱傭合約；解除義務／法律責任／貸款；服務及優待；行使或不行使權利／權力／職責等。

SAMPLE LETTER FOR SOUNDING OUT EXERCISE

To: [The Listed Consultants under the targeted Group and Service Category]

Dear Sirs,

Agreement No.

Agreement Title

Sounding Out Exercise

This Office is planning to invite submission of expression of interest (EOI) from consultants for undertaking the captioned assignment. The brief scope of the assignment and the tentative invitation date are shown below for reference.

- (a). Brief Scope of the Assignment
- (b). Tentative list of deliverables
- (c). Tentative programme of the Assignment
- (d). Other special requirements (e.g. staffing, etc)
- (e). Tentative EOI Invitation Date

[Input by procuring department]

Please note that the information above may be subject to change without prior notice. In addition, this letter in no way indicates that consultancy will be invited for the captioned assignment, either at the time stated or at any time and either from the List of Consultants maintained by EACSB or any other initial list of consultants where appropriate, and Government accepts no responsibility whatsoever for any loss or expenses that may be incurred as a result of the issuance of this letter.

You are cordially invited to express your interest under this sounding out exercise on a non-committal basis in bidding for the captioned assignment by completing and returning the reply slip enclosed by [Date].

Yours faithfully,

()

Encl.

Reply Slip

To: [Procuring Departments]

Agreement No.

Agreement Title

Sounding Out Exercise

Dear Sirs,

I refer to your letter ref. [Letter reference] dated [Date] inviting the expression of interest in bidding for the captioned assignment.

☐ I / We would like to express our interest in bidding for the captioned assignment. I / We look forward to receiving invitation documents for the captioned assignment.

☐ I / We are not interested in bidding for the captioned assignment.

Signature: _____

Name: _____

(in Block letter)

Company: _____

Date: _____

Contact Person: _____

Tel. No: _____

Fax. No: _____

Email: _____

*Please put a tick in the appropriate box

Value for Money (VFM) Measures – Full Marks Approach and Enhanced Bidding Mechanism**A. “Full Marks Approach”**

1. Selection criteria which will adopt the “Full Marks Approach” are marked grey below:

(i) Expression of Interest (EOI) Submission

<i>Selection Criterion</i>	<i>Marking Approach</i>
1. Appreciation of key requirements and constraints/risks	Individual Qualitative Assessment
2. Approach and strategy to meet the requirements	
3. Previous relevant experience	Full Marks if Meeting Specifications
4. Knowledge, experience and capability of key staff	
5. Past performance	Past Performance Rating

(ii) Technical Proposal

<i>Selection Criterion</i>	<i>Marking Approach</i>
1. Consultant's experience	Full Marks if Meeting Specifications
2. Response to the Brief	
3. Approach to cost-effectiveness and sustainability	Individual Qualitative Assessment
4. Methodology and work programme	
5. Innovation and creativity	
6. Staffing	Full Marks if Meeting Specifications
7. Past Performance	Past Performance Rating

2. Full Marks will be attained by consultant if the consultant is able to meet quantitative specifications to be set out by the Assessment Panel. However, each assessment panel member shall individually assess whether the quantitative specifications have been met.

<i>Selection Criterion</i>	<i>Specification</i>
EOI Submission	
3. Previous relevant experience	Number of relevant consultancy assignments conducted by the consultant ¹
4. Knowledge, experience and capability of key staff	Core personnel's years of post-qualification experience and number of relevant job reference ²

¹ For attaining full mark (i.e. grade VG) in Item 3 of the EOI Submission or Item 1 of Technical Proposal, a consultant shall possess experience on having conducted [5] or more relevant consultancy assignments within [10] years on or before the original or the extended EOI/ T&F proposal submission closing date as agreed by the Assessment Panel (AP) and specified in the EOI/T&F invitation documents. Likewise, the criteria for the other grades shall be determined accordingly. Same set of criteria shall be adopted in both the EOI and T&F invitation documents. The format of marking guideline may be as follows (for illustrative purpose only):

No. of relevant consultancies involved	Grade
[5] or more	VG
[3] to [4]	G
[1] to [2]	F
0	P

² For attaining full mark (i.e. grade VG) in Item 4 of EOI Submission or Item 6(b) of Technical Proposal, a core personnel (including staff down to Team Leaders) shall possess certain minimum qualification and experience, e.g. a staff belonging to Partner/Director Category as Project Manager, and shall have not less than [20] years post qualification experience and not less than [5] relevant job references as agreed by the AP and specified in the EOI/T&F invitation documents. Likewise, the criteria for the other staff categories shall be determined accordingly. The procuring department shall specify the minimum number of core personnel and their respective designations in the EOI/T&F invitation documents. Same marks shall be allocated to the core personnel under the same designation. If the number of core personnel proposed by the consultant for a particular designation is more than that specified in the invitation documents, the average marks attained by the core personnel for that particular designation would be adopted in tender assessment. If the number of core personnel proposed by the consultant for a particular designation is less than that specified in the invitation documents, the core personnel proposed will be marked based on the relevant selection criteria while the core personnel missing in the submission will be graded "P". Same set of criteria shall be adopted in both the EOI and T&F invitation documents. The format of the marking guideline may be as follows (for illustrative purpose only):

<i>Selection Criterion</i>	<i>Specification</i>
Technical Proposal	
1. Consultant's experience	Number of relevant consultancy assignments conducted by the consultant (similar to Item 3 for EOI Submission)
2. Response to the Brief	Number of key issues/problems identified in the assignment with practicable suggestions on ways of addressing them ³
6. Staffing	
(a) Staff organization chart	Organization chart submitted will be marked using four different grades according to pre-set descriptions ⁴

Core Personnel Designation	Post Qualification Experience	Relevant Job Reference	Grade
Project Manager (Mark: XX%) Minimum qualification of a P/D category	Not less than [20] years	Not less than [5] projects	VG
	Not less than [18] years	Not less than [3] projects	G
	Not less than [15] years	Not less than [1] project	F
	Fail to provide the core personnel or meet the standard above		P

³ For attaining full mark (i.e. grade VG) in Item 2 of Technical Proposal, a consultant should identify in the Services [5] or more key issues/problems with practicable suggestions on ways of addressing them as agreed by the AP and specified in the T&F invitation documents. Likewise, the criteria for the other grades shall be determined accordingly. The format of marking guideline may be as follows (for illustrative purpose only):

No. of key issues/problems identified	Grade
[5] or more	VG
[3] to [4]	G
[1] to [2]	F
0	P

⁴ The pre-set descriptions for the four different grades are follows:

Description	Grade
Very efficient and effective staff organization with strong teams of experts and professionals and comprehensive communication and collaboration platforms	VG
Efficient and effective staff organization with well-defined teams of experts and professionals and suitable communication and collaboration platforms	G
Fair staff organization showing reasonable teams of experts and professionals and communication and collaboration platforms	F
No information or a poor staff organization	P

<i>Selection Criterion</i>	<i>Specification</i>
Technical Proposal	
(b) Relevant experience and qualification of key staff	Core personnel's years of post-qualification experience and number of relevant job reference (similar to Item 4 for EOI Submission)
(c) Responsibility and degree of involvement of key staff	Degree of involvement of staff, in term of weighted manpower input, with professional category or above named in the technical proposal ⁵ .
(d) Adequacy of professional and technical manpower input	Same as the mechanism stipulated in DEVB TC(W) No. 2/2016, with the application of the multiplier for provision of overloaded staff in the tender ⁶ .

⁵ For attaining full mark (i.e. grade VG) in Item 6c, a consultant should propose at least [80%] of the weighted total manpower input to be named staff with professional category or above as agreed by the AP and specified in the T&F invitation documents. Likewise, the criteria for the other grades shall be determined accordingly. The format of marking guideline may be as follows (for illustrative purpose only):

Degree of Involvement (X)	Grade
$X \geq [80]\%$	VG
$[60]\% \leq X < [80]\%$	G
$[40]\% \leq X < [60]\%$	F
$X < [40]\%$	P

where X is calculated by using the following formula:

$$\frac{\text{Weighted manpower input of named staff with professional category or above}}{\text{Weighted total manpower input}} \times 100\%$$

⁶ Where the information, together with clarifications from the consultant (if any) reveals overloading situation in the manpower input, mark to be given for the “adequacy of professional and technical manpower input” attribute shall be adjusted by the Assessment Panel using the following as a guide:

Overloading Situation	Degree of Overloading	Marks for “Adequacy of professional & technical manpower input” shall be multiplied by (exact multiplier to be decided by the Panel)
Minor	$> 0\%$ and $\leq [5]\%$	0.9 to 0.95
Medium	$> [5]\%$ and $< [10]\%$	0.8 to 0.9
Serious	$\geq [10]\%$	0.7 to 0.8

B. Enhanced Bidding Mechanism

(1) Enhanced Fee Diving Control Mechanism

1. Thresholds are set at 80% and 100% of the Median Consultancy Fee (Fx) which is the median of consultancy fees of all conforming bids and the pretender estimated consultancy fee worked out by the procuring department for that particular assignment.
2. If the consultancy fee of the bid being assessed falls between 0.8 Fx and 1.0 Fx (both inclusive), it will get the full weighted consultancy fee score.
3. If the consultancy fee of the bid being assessed is higher than 1.0 Fx but not 2.0 Fx, the assessment method of the weighted consultancy fee score will follow the formula below:

$$\text{Weighted Consultancy Fee Score} = \text{Specified weighting} \times \left(1 - \frac{\text{Fee of bid being assessed} - F_x}{F_x} \right)$$

[Continuation of footnote 6 in Page 4 of 5]

Notwithstanding the above, the following circumstances will be considered as “Serious” overloading situations:

- (a) *(Applicable to consultancies with T&F Proposals to be closed **before** 23 September 2023)* Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating to enable the procuring departments to endorse it for existing consultancies (i.e. consultancies with EOI submissions or Technical and Fee Proposals (for one-stage procedure) invited before 3 December 2018);

*(Applicable to consultancies with T&F Proposals to be closed **on or after** 23 September 2023)* Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating for any on-going consultancies (i) which are undertaken by the consultant or any of its proposed sub-consultant as the sole consultant or one of the participants in the joint venture, and (ii) of which the technical proposals did not contain manning schedules enabling the assessment of overloading situation in accordance with this Guidelines to be properly performed and hence the overloading situations were marked as “Serious” in the consultant selection exercises of such on-going consultancies (refer to **Appendices 3.6 and 3.7** for details); or
- (b) Where the consultant (i) fails to submit a manning schedule with its Technical Proposal; and/or (ii) only submits a manning schedule in a bar chart format or in other format with its Technical Proposal, which makes the assessment of overloading situation in accordance with the Guidelines unable to be properly performed.(refer to **Appendix 3.6** for details).

4. If the consultancy fee of the bid being assessed is higher than 2.0 Fx, the weighted consultancy fee score will be zero.
5. If the consultancy fee of the bid being assessed is less than 0.8 Fx, the assessment method of the weighted consultancy fee score will follow the formula below:

$$\text{Weighted Consultancy Fee Score} = \text{Specified weighting} \times \left(0.6 + 0.4 \times \frac{\text{Fee of bid being assessed}}{0.8 \text{ Fx}} \right)$$

(2) Calculation of Adjusted All-inclusive Time Charge Rates and Adjusted Notional Value for Additional Services (based on a set of referenced staff rates of additional Services)

- (a) The consultants are required to provide on the first page of the Fee Proposal a set of percentage adjustment factors which will be used to calculate the adjusted all-inclusive time charge rates in accordance with paragraph 4 below for the additional Services under the Agreement.
- (b) The percentage adjustment factors input by the consultants shall not exceed the range of -30% to +30%.
- (c) The consultant shall not be allowed to make any change to the percentage adjustment factors on the first page of the Fee Proposal, except the corrections as provided below:
 - (i) Any percentage adjustment factor entered by the consultant on the first page of the Fee Proposal which is higher than the upper limit shall be corrected to the upper limit while any percentage adjustment factor entered by the consultant on the first page of the Fee Proposal which is lower than the lower limit shall be corrected to the lower limit.
 - (ii) If the consultant fails to put in any or all of the percentage adjustment factors, the relevant percentage adjustment factors shall be corrected by deeming the factors as zero.
 - (iii) The consultant will be requested to confirm that it agrees to abide by its bid with the percentage adjustment factors so corrected for calculating the adjusted all-inclusive time charge rates for bid assessment purpose and for payment of additional Services/management of the consultant upon award of the assignment. If the consultant fails to confirm its agreement to abide by its bid with the factors

Appendix 3.2

so corrected by a specified deadline, the consultant's bid shall not be considered further.

- (d) The adjusted all-inclusive time charge rates for bid assessment purpose and for payment of additional Services/management of the consultant upon award of the assignment are calculated by using the formula below:

$$\text{Adjusted all-inclusive time charge rates} = \left[\frac{\text{Proposed percentage adjustment}}{\text{All-inclusive time charge rates in the Fee Proposal Proforma}} \right]$$

where the proposed percentage adjustment is calculated by $100\% + \text{percentage adjustment factor (with corrections if necessary)}$ in the Fee Proposal.

- (e) For the purpose of assessment of the Fee Proposal (i.e. Weighted Consultancy Fee Score), a “consultancy fee” shall be calculated for by summing (a) the lump sum fee (comprising staff costs and non-staff costs), (b) the adjusted notional value for additional Services as calculated by using the formula below, and (c) if applicable, the notional resident site staff on-cost charges.

$$\text{Adjusted notional value for additional Services} = \sum \left[\frac{\text{Notional man-hours for additional Services}}{\text{Proposed percentage adjustment}} \times \text{All-inclusive time charge rates in the Fee Proposal Proforma} \right]$$

where the proposed percentage adjustment is calculated by $100\% + \text{percentage adjustment factor (with corrections if necessary)}$ in the Fee Proposal.

- (f) The checking of the “Specified Percentage Range” requirement in accordance with the DEVB TC(W) No. 2/2016 is not required.

A. SAMPLE INVITATION LETTER FOR EXPRESSION OF INTEREST

~~(The amendments to the sample (Not Used)~~

~~[Remarks: For agreements adopting NEC PSC, please refer to the latest template for shortlisting criteria in the Guidelines Revision No. 2 have been subsumed in the EACSB Handbook Revision No. 16)~~

~~When the Assignment is under the Service Category maintained by EACSB, the following amendments to the Sample Invitation Letter for Expression of Interest in Appendix 3.1 of EACSB Handbook Revision No. 16 shall be made:~~

~~i. Paragraph 4 of the letter shall be revised by replacing the last sentence with the following:~~

~~“Documents submitted in response to paragraphs 9, 10, 13, 14, **【17 (if Sections 3.1.1.2(a) and/or (b) of the Guidelines are not applicable)】** and 19 are not counted towards the number of pages of the EOI submission.”~~

~~ii. Paragraphs 12, 12a, 12b and 12c of the letter shall be revised by deleting “is mandatory” and/or “is discretionary” in the square brackets.~~

~~iii. Paragraphs 12b and 12d of the letter shall be revised by adding “**【This paragraph shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**” at the end of the paragraph.~~

~~iv. **【If Section 3.1.1.2(c) of the Guidelines is applicable】** Paragraph 12d of the letter shall be deleted and replaced as below:~~

~~“For the avoidance of doubt, apart from the consulting firms on the lists given in Annex _____ to this letter **【Inclusion of Annex D】**, you can also engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~**【Input the sub-consulting services】**~~

~~The Expression of Interest submission for this Assignment in respect of the sub-consultants solely for the above services will be evaluated on an equal basis, no matter whether the sub-consultants are on the lists given in Annex _____ to this letter **【Inclusion of Annex D】** or~~

not.”.

- v. ~~【If Section 3.1.1.2(c) of the Guidelines is applicable】~~ A new paragraph 12e shall be added to the letter as below:

~~“A consultant will be regarded as “non local consultant” if:~~

- ~~(i) the consultant is a natural person who, as at the closing date of the Expression of Interest submission, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub consulting services set out in paragraph 12d; or~~
- ~~(ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the Expression of Interest submission; or~~
- ~~(iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.~~

~~In the event that you propose to engage an unlisted non local sub consultant to perform any of the sub consulting services listed in paragraph 12d, you shall submit with your submission declarations signed by each of such proposed sub consultants to declare the sub consultant’s non local status. Failure by a consultant to submit such declarations with its submission and upon request will lead to disqualification of the consultant’s Expression of Interest submission. A sample declaration letter is attached at Annex _____ of this letter **【Inclusion of Annex G as an Annex to this letter】**.”~~

- vi. Paragraph 13 of the letter shall be deleted and replaced as below:

~~“13. No consultants are permitted to submit more than one bid for the same agreement. For the avoidance of doubt, consultants who submit a bid in their own name and a bid in the name of an un incorporated joint venture/partnership (with the consultants concerned as a participant/partner) will be considered as having submitted two bids. Consultants (these must be consulting firms to be eligible for being considered for this consultant selection exercise) having linkages to each other, e.g. subsidiaries, parent or sister companies are not allowed to bid on the same agreement. Only one firm among such consultants, as the case may be, should be allowed to submit expression of interest for a consultancy agreement. In~~

~~your expression of interest submissions, you are thus required to declare any linkage with other consultants on the list as stated in paragraph 12 of this invitation letter. For the avoidance of doubt, if you have no linkage with any consultants on the above list, you are also required to declare the same in the expression of interest submissions. The existence of a holding subsidiary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap 622), “Sister companies” shall mean all companies which are subsidiaries of or otherwise belonging to the same holding company. Consultants having linkages should sort out among themselves before submitting any expression of interest.”~~

vii. ~~Paragraph 14 of the letter shall be deleted and replaced as below:~~

~~“14. For the purpose of this “no linkage” requirement, an academic institution and any separate entities/companies formed by the same academic institution or any of its current staff, or any two of such entities/companies (whether formed by the same staff or not), shall be regarded as “linked”. An academic institution, and all such entities/companies formed by it or any of its current staff (whether by the same staff or not), shall be allowed to submit only one expression of interest for the same consultancy agreement. You are also required to declare any such linkage with other consultants on the list as stated in paragraph 12 of this invitation letter, if applicable. For the avoidance of doubt, if you have no linkage with any consultants on the above list, you are also required to declare the same in the expression of interest submissions. An entity/company is regarded as formed by the academic institution or its staff if the latter is a partner/shareholder or a director of the former, whether or not the latter is a founding partner/subscriber when the entity/company was formed. However, the “no linkage” rule does not apply to “linked” consulting firms (including academic institutions) who bid as sub-consultants only for any agreement.”~~

viii. ~~Paragraph 15 of the letter shall be revised by replacing “Failure to observe the requirement” with “Failure to observe the “no linkage” requirement”.~~

ix. ~~Paragraph 17 of the letter shall be deleted and replaced as below:~~

~~“17. If sub-consultants are to be employed, you are required to complete the table in Annex _____ to this letter indicating, if any, the name of each proposed sub-consultant, the scope of sub-consulting services to be undertaken by each listed and unlisted sub-consultant to be employed, the relevant listed service category or discipline for which each sub-consultant is to be employed and the corresponding list maintained and letters and associated documents published by the Government, and if your proposed sub-consultant is unlisted but an~~

~~application for inclusion on the List of Consultants of EACSB under the relevant Service Category has been made prior to the date set for close of submission of Expression of Interest, please also indicate the date on which such application is made in the table (these items of information are collectively referred to in this paragraph as “the sub-consultants’ information”). Failure to submit any item of the sub-consultants’ information in the Expression of Interest submission, which makes the compliance check with the bidding restrictions as set out in Annex _____ to this letter **【Inclusion of Annex C see Paragraph 12a. above】** in the respect of engagement of sub-consultants unable to be conducted will lead to disqualification of the consultant’s Expression of Interest submission. If you have any enquiry on completing the table on whether the sub-consulting service to be undertaken by a sub-consultant is within the scope of a particular listed service category or discipline and would like to seek clarification, your enquiry must be delivered to me by hand before 12:00 noon, _____ **【the procuring department should specify the exact date here, say at least ten working days before the deadline for submission of EOI】**. The enquiry shall be sufficiently specific to facilitate the preparation of clarification. Late enquiry will not be entertained. **【Inclusion of Annex F as an Annex to this letter.】**~~

~~**【This paragraph shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】”**~~

x. ~~_____ (not used)~~

xi. ~~Paragraph 3(a) of Annex C of the letter shall be revised by replacing the first sentence with the following:~~

~~“If a joint venture is formed by listed consultants with one or more unlisted consultants, the listed consultants in the joint venture shall ensure that each unlisted consultant is technically capable for that part of the consultancy services it undertakes.”~~

xii. ~~Paragraphs 4.1(a) and 4.2(a) of Annex C of the letter shall be revised by:~~

~~(i) replacing “If” at the beginning of the paragraph with “Save as provided in paragraph 4.3(b) **【and 4.4 (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** below,”; and~~

~~(ii) replacing “In that case” at the beginning of the second sentence with “Save as aforesaid,”.~~

xiii. ~~Paragraph 4.1(c) of Annex C of the letter shall be revised by replacing the last sentence with~~

the following:

~~“Late notification of the proposed change of the sub-consultant(s) may result in disqualification of the T&F Proposal because it may deprive the Assessment Panel of a proper chance to review how the proposed change will affect the shortlist status of the consultant before the deadline of submission of T&F Proposal.”~~

- xiv. ~~Annex C of the letter re-number the original paragraph 4.3 to paragraph 4.3(a) and add the following new paragraph 4.3(b) as below:~~

~~“If the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in paragraphs 4.1 and 4.2 above. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

- xv. ~~【if Section 3.1.1.2(c) of the Guidelines is applicable】~~ A new paragraph 4.4 shall be added to Annex C of the letter as below:

~~“In the event that the consultant proposes to engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~—【Input the sub-consulting services】—~~

~~the engagement of such sub-consultants is not subject to the requirements as mentioned in paragraphs 4.1 and 4.2 above. A consultant will be regarded as “non-local consultant” if (i) the consultant is a natural person who, as at the closing date of the Expression of Interest submission, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the Expression of Interest submission; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this~~

~~paragraph. In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed above, you shall submit with your submission declarations signed by each of such proposed sub-consultants to declare the sub-consultant's non-local status. Failure by a consultant to submit such declarations with its submission and upon request will lead to disqualification of the consultant's Expression of Interest submission."~~

~~xvi. Paragraph 6 of Annex C of the letter shall be revised by deleting "because of change in listing status" in the first sentence and replacing "listing" with "eligibility" in the second sentence.~~

~~xvii. A new Annex C1 shall be added to the letter as below:~~

~~"_____ [Annex ____] to Invitation Letter for Expression of Interest —~~

~~Bidding Restrictions~~

~~—【For use if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】—~~

~~1. Subject to paragraph 2 below, an Expression of Interest (EOI) submission shall not be considered unless it is submitted by a consultant listed in Annex _____ 【Refer to Annex B to this sample invitation letter】 of the invitation letter.~~

~~2. If the EOI submission is made by a joint venture, at least one of the participants or shareholders shall be on the initial list shown in Annex _____ 【Refer to Annex B to this sample invitation letter】 of the invitation letter. The joint venture's EOI submission shall not be considered if it fails to comply with this requirement.~~

~~3. If the consultant proposes one or more sub-consultants to undertake sub-consulting services under the listed service categories maintained by Engineering and Associated Consultants Selection Board ("EACSB") and/or Architectural and Associated Consultants Selection Board ("AACSB"), the consultant may engage any sub-consultants even if they are not listed under the relevant service categories maintained by EACSB or AACSB, as the case may be, provided that~~

- ~~i. the sub-consultants are not suspended from bidding for EACSB consultancy agreements and/or AACSB consultancy agreements in the service categories relevant to the sub-consulting services to be undertaken; and~~
- ~~ii. the sub-consultants are not subject to a debarment period from re-admission after removal from the lists of EACSB and/or AACSB for the service categories relevant to the sub-consulting services to be undertaken~~

~~on or before the date set for the close of EOI submission, or if this has been extended, the extended date. Failure to comply with this requirement will lead to disqualification of the consultant's EOI submission.~~

~~4. If a consultant who makes the EOI submission has proposed to engage a sub-consultant who has been suspended from bidding for either EACSB consultancy agreements in one or more service categories within the purview of the EACSB or AACSB consultancy agreements in one or more service categories within the purview of the AACSB, and/or who has been subject to a debarment period from re-admission after removal from the lists of EACSB and/or AACSB after the closing date for EOI submission, the Assessment Panel may continue the assessment based on the said sub-consultant's status as at the closing date for EOI submission."~~

~~xviii. The heading of Annex D of the letter shall be revised by adding "**【This Annex shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**" above the "Invitation for Expression of Interest".~~

~~xix. Note (a) of Annex D of the letter shall be deleted and replaced as below:~~

~~"If the consultant proposes to engage one or more sub-consultants for this Assignment, the consultant shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to on DEVB TC(W) No. 5/2018 (the Guidelines)."s website:~~

~~xx. Note (b) of Annex D of the letter shall be revised by:~~

~~(i) replacing "The" at the beginning of the paragraph with "Save as provided in note (e) **【and (f) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** below, the"; and~~

~~(ii) replacing "note (e)" in the second sentence with "notes (e) and (e) **【and (f) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】**".~~

~~xxi. Note (c) of Annex D of the letter shall be revised by replacing "Unlisted" at the beginning of the note with "Save as provided in note (e) **【and (f) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】**, unlisted".~~

~~xxii. A new note (e) shall be added after note (d) to Annex D of the letter as below:~~

~~“As mentioned in Section 2.3.1(b)(vi) of the Guidelines, if the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) of the Guidelines. — In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

xxiii. — A new note (f) shall be added to Annex D of the letter as below:

~~—【Insert if Section 3.1.1.2(c) of the Guidelines is applicable】“In the event that the consultant proposes to engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~—【Input the sub-consulting services】—~~

~~the engagement of such sub-consultants is not subject to the requirements as mentioned in Section 2.3.1(b) of the Guidelines. — A consultant will be regarded as “non-local consultant” if (i) the consultant is a natural person who, as at the closing date of the Expression of Interest submission, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the Expression of Interest submission; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph. — In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed above, you shall submit with your submission declarations signed by each of such proposed sub-consultants to declare the sub-consultant’s non-local status. — Failure by a consultant to submit such declarations with its submission and upon request will lead to disqualification of the consultant’s Expression of Interest submission.”~~

xxiv. — The heading of Annex F of the letter shall be revised by adding “~~—【This Annex shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】~~” above the “Table

~~of Listed and Unlisted Sub-Consultants and Scope of Sub-consulting Services to be undertaken”.~~

xxv. ~~Note (c) of Annex F of the letter shall be deleted and replaced as below:~~

~~“If the consultant proposes to engage one or more sub-consultants for this Assignment, the consultant shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018 (the Guidelines).”~~

xxvi. ~~Note (d) of Annex F of the letter shall be revised by:~~

~~(i) replacing “The” at the beginning of the first sentence with “Save as provided in note (g) **【and (h) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** below, the”; and~~

~~(ii) replacing “note (e)” in the second sentence with “notes (g) and (h) **【and (g) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】**”.~~

xxvii. ~~Note (e) of Annex F of the letter shall be revised by replacing “Unlisted” at the beginning of the first sentence with “Save as provided in note (g) **【and (h) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** below, unlisted”.~~

xxviii. ~~A new note (g) shall be added after note (f) to Annex F of the letter as below:~~

~~“As mentioned in Section 2.3.1(b)(vi) of the Guidelines, if the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) of the Guidelines. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

xxix. ~~A new note (h) shall be added to Annex F of the letter as below:~~

~~【Insert if Section 3.1.1.2(c) of the Guidelines is applicable】“In the event that the consultant proposes to engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~【Input the sub-consulting services】~~

~~the engagement of such sub-consultants is not subject to the requirements as mentioned in Section 2.3.1(b) of the Guidelines. A consultant will be regarded as “non-local consultant” if (i) the consultant is a natural person who, as at the closing date of the Expression of Interest submission, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the Expression of Interest submission; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph. In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed above, you shall submit with your submission declarations signed by each of such proposed sub-consultants to declare the sub-consultant’s non-local status. Failure by a consultant to submit such declarations with its submission and upon request will lead to disqualification of the consultant’s Expression of Interest submission.”~~

~~Annex G to Sample Invitation Letter for EOI~~

~~Sample Declaration Letter~~

~~Consultancy Agreement No. _____
(Agreement Title)~~

~~To: The Government of the HKSAR~~

~~We declare that we are non-local having regard to the definition of “Non-local” in Clause 12e of the
Invitation Letter for the subject Agreement.~~

~~Name of Sub-consultant: _____~~

~~Signature of person authorised to sign the declaration letter: _____~~

~~Name in block letters _____~~

~~Telephone number: _____~~

~~Date: _____~~

B. SAMPLE TEMPLATE FOR SHORTLISTING CRITERIA

(The amendments to the sample template for shortlisting criteria in the Guidelines Revision No. 2 have been subsumed in the EACSB Handbook Revision No. 16.)

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/practice_notes_nec_professional_services_contract/index.html

1. ~~The sample template for shortlisting criteria in Appendix 3.1A of EACSB Handbook Revision No. 16 shall be adopted with the following amendments:~~

i. ~~The second sentence of the first paragraph of Note 5 shall be deleted and replaced as below:~~

~~“Same marks shall be allocated to the core personnel under the same designation.”~~

ii. ~~The second paragraph and table under Note 5 shall be deleted and replaced as below:~~

~~“If the number of core personnel proposed by the consultant for a particular designation is more than that specified in the invitation documents, the average marks attained by the core personnel for that particular designation would be adopted in tender assessment. If the number of core personnel proposed by the consultant for a particular designation is less than that specified in the invitation documents, the core personnel proposed will be marked based on the relevant selection criteria while the core personnel missing in the submission will be graded “P”.”~~

Core Personnel Designation	Post Qualification— Experience	Relevant Job— Reference	Grade
[Project Director] (Mark: XX%) Minimum number: [1] Minimum qualification of a [P/D] category	Not less than [20] years	Not less than [5]— projects	VG
	Not less than [18] years	Not less than [3]— projects	G
	Not less than [15] years	Not less than [1]— project	F
	Fail to provide the core personnel or meet the— standard above		P

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Core Personnel Designation	Post Qualification– Experience	Relevant Job– Reference	Grade
{Project Manager} (Mark: YY%) Minimum number: {1} Minimum qualification of a {CP} category	Not less than {18} years– (professional); or Not less than {23} years– (academic)	Not less than {5}– projects	VG
	Not less than {15} years– (professional); or Not less than {20} years– (academic)	Not less than {3}– projects	G
	Not less than {12} years– (professional); or Not less than {17} years– (academic)	Not less than {1}– project	F
	Fail to provide the core personnel or meet the– standard above		P

Core Personnel Designation	Post Qualification– Experience	Relevant Job– Reference	Grade
{Team Leader} (Mark: ZZ%) Minimum number: {1} Minimum qualification of a {CP} category	Not less than {18} years– (professional);–	Not less than {5}– projects	VG
	Not less than {15} years– (professional);–	Not less than {3}– projects	G
	Not less than {12} years– (professional);–	Not less than {1}– project	F
	Fail to provide the core personnel or meet the– standard above		P

Core Personnel Designation	Post Qualification– Experience	Relevant Job– Reference	Grade
{Team Leader} (Mark: ZZ%) Minimum number: {1} Minimum qualification of a {CP} category	Not less than {18} years– (professional); or Not less than {23} years– (academic)	Not less than {5}– projects	VG
	Not less than {15} years– (professional); or Not less than {20} years– (academic)	Not less than {3}– projects	G

Appendix 3.3

	Not less than [12] years— (professional); or Not less than [17] years— (academic)	Not less than [1]— project	F
	Fail to provide the core personnel or meet the— standard above		P

iii. ~~The first blind note of Note 5 shall be deleted and replaced as below:~~

~~“N.B: The sum of marks allocated to all Core Personnel shall be 100. Add additional tables if required. In addition, the job reference to be counted as relevant may be elaborated to suit the specific nature of project where appropriate. Also, the need of post qualification experience in the respect of academic shall be reviewed to see if it is relevant to the discipline of the key staff so specified for the staff category of “Chief Professional”. In particular, where there exist professional institutions in the discipline of the relevant professional, it is less likely that post qualification academic experience may be relevant.”~~

C. ~~SAMPLE INVITATION LETTER FOR TECHNICAL AND FEE PROPOSALS~~

(The amendments to the sample invitation letter for Technical and Fee Proposals in the Guidelines Revision No. 2 have been subsumed in the EACSB Handbook Revision No. 16.)

1. ~~When the Assignment is under the Service Category maintained by EACSB and two-stage selection process is adopted, the following amendments to the Sample Invitation Letter for Technical and Fee Proposals (for two-stage selection process) attached to Appendix 3.4 of EACSB Handbook Revision No. 16 shall be made:~~

i. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ Paragraph 5(iv) of the letter is replaced by the following updated version:

~~“The adjusted all inclusive time charge rates for additional Services, which are calculated by multiplying the proposed percentage adjustment (being 100% plus the percentage adjustment factors which are not exceeding the range of -30% to +30%) and the all inclusive time charge rates in the Fee Proposal Proforma, could be different from the staff charge rates indicated in the manning schedule at sub-paragraph (ii) of this paragraph.”~~

ii. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ Paragraph 6 is deleted and replaced by the following updated version:

~~“We shall not accept any Fee Proposal where the lump sum fee on the first page of the Fee Proposal is different from the total fee for the staff and non-staff charges for all stages in the summary breakdown of lump sum fee”~~

iii. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ The last sentence of paragraph 7 is replaced by the following updated version:

~~“You are not, however, allowed to make any adjustment to the lump sum fee, the percentage adjustment factors for calculating the adjusted all inclusive time charge rates for additional Services and on-cost rates on the first page of the Fee Proposal (except for the necessary corrections of the percentage adjustment factors pursuant to paragraph 9a below).”~~

iv. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of~~

~~additional Services), specified in Section 3.4 of the Guidelines, is applicable】 The first sentence of paragraph 8 is replaced by the following updated version:~~

~~“In respect of the percentage adjustment factor for each staff category specified in the prescribed Fee Proposal Proforma for “additional Services”, irrespective of the number of sub-consultants that may be involved, only ONE percentage adjustment factor shall be inserted as specified.”~~

- v. ~~【 Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】 A new paragraph 9a is added as below:~~

~~“Your attention is drawn to the requirement to insert the percentage adjustment factors not exceeding the range of -30% to +30% for calculating the adjusted all-inclusive time charge rates for additional Services in respect of each category of staff specified in the prescribed Fee Proposal Proforma, which are essential for bid assessment purpose and the adjusted all-inclusive time charge rates will be used for payment of additional Services/management of the Consultants upon award of the Assignment. If you fail to put in any or all of these factors, the relevant factor(s) shall be corrected by deeming the factor(s) as zero. If the percentage adjustment factor(s) entered by the consultant on the first page of the Fee Proposal for calculating the adjusted all-inclusive time charge rates for additional Services for any or all of the categories of staff is higher than the upper limit of +30%, the relevant percentage adjustment factor(s) shall be corrected to such upper limit. If the percentage adjustment factor(s) entered by the consultant on the first page of the Fee Proposal for calculating the adjusted all-inclusive time charge rates for additional Services for any or all of the categories of staff is lower than the lower limit of -30%, the relevant percentage adjustment factor(s) shall be corrected to such lower limit. We will seek confirmation from you to abide by the bid with the relevant factor(s) so corrected for calculating the adjusted all-inclusive time charge rates for bid assessment purpose and for payment of additional Services/management of the Consultants upon award of the Assignment. If you confirm your agreement to abide by the bid with the factor(s) so proposed and/or corrected, the combined score assessment of Technical and Fee Proposals will then be completed in the prescribed manner in accordance with DEVB TC(W) No. 2/2016 and No. 5/2018 and their subsequent updates (if any) on the basis of the proposed fee and/or factors with such factor(s) so corrected and confirmed. If you fail to confirm your agreement to abide by the bid with the factor(s) so proposed and/or corrected in writing by a specified deadline, your bid shall not be considered further for this consultant selection exercise.”~~

- vi. ~~【Update if the enhanced bidding mechanism, specified in Section 3.4 of the Guidelines, is applicable】~~ The first two sentences of paragraph 10 are replaced by the following updated version:

~~“Your attention is drawn to the requirement to insert the on-cost rate in respect of each category of staff specified in the prescribed Fee Proposal Proforma for “Direct Employment of Resident Site Staff”, which information is essential for bid assessment purpose and for payment/management of the Consultants upon award of the Assignment.”~~

- vii. Paragraph 10a of the letter shall be revised by deleting “tenders and/or” in the last sentence.

- viii. Paragraphs 15a and 15b of the letter shall be revised by deleting “is mandatory” in the square brackets.

- ix. Paragraphs 15b and 15c of the letter shall be revised by adding “~~【This paragraph shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】~~” at the end of the paragraph.

- x. ~~【If Section 3.1.1.2(c) of the Guidelines is applicable】~~ Paragraph 15c of the letter shall be deleted and replaced as below:

~~“For the avoidance of doubt, apart from the consulting firms on the lists given in Annex _____ to this letter ~~【Inclusion of Annex C】~~, you can also engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~—【Input the sub-consulting services】—~~

~~The Technical and Fee Proposals for this Assignment in respect of the sub-consultants solely for the above services will be evaluated on an equal basis, no matter whether the sub-consultants are on the lists given in Annex _____ to this letter ~~【Inclusion of Annex C】~~ or not.”~~

- xi. ~~【If Section 3.1.1.2(c) of the Guidelines is applicable】~~ A new paragraph 15d shall be added to the letter as below:

~~“A consultant will be regarded as “non-local consultant” if:~~

- ~~(i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out in paragraph 15c; or~~
- ~~(ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or~~
- ~~(iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.~~

~~In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed in paragraph 15c, you shall submit with your Technical Proposal declarations signed by each of such proposed sub-consultants to declare the sub-consultant's non-local status. Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant's Technical and Fee Proposals. A sample declaration letter is attached at Annex _____ of this letter **【Inclusion of Annex F as an Annex to this letter】**.~~"

~~xii. The second sentence of Paragraph 24 of the letter shall be deleted.~~

~~xiii. Paragraph 25 of the letter shall be deleted and replaced as below:~~

~~"If sub-consultants are to be employed, you are required to complete the table attached in Annex _____ to this letter indicating, if any, the name of each proposed sub-consultant, the scope of sub-consulting services to be undertaken by each listed and unlisted sub-consultant to be employed, the relevant listed service category or discipline for which each sub-consultant is to be employed and the corresponding list maintained and published by the Government (these items of information are collectively referred to in this paragraph as "the sub-consultants' information"). Failure to submit any item of the sub-consultants' information in the Technical Proposal, which makes the compliance check with the bidding restrictions as set out in Annex _____ to this letter **【Annex B as stated in paragraph 15a above.】** in the respect of engagement of sub-consultants unable to be conducted will lead to disqualification of consultant's Technical and Fee Proposal. If you have any enquiry on completing the table on whether the sub-consulting service to be undertaken by a sub-consultant is within the scope of a particular listed service category or discipline and would like to seek clarification, your~~

enquiry must be delivered to me by hand before 12:00 noon, _____ ~~【 the
procuring department should specify the exact date here, preferably same as the deadline of
provision of list of queries for pre submission meeting 】~~. The enquiry shall be sufficiently
specific to facilitate the preparation of clarification. Late enquiry will not be entertained.
~~【Inclusion of Annex D as an Annex to this letter.】~~
~~【This paragraph shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines
are applicable】”~~

xiv. ~~(not used)~~

xv. ~~Paragraph 2 of Annex B of the letter shall be revised by replacing “same arrangement was
proposed” in the first sentence of the paragraph with “same participants were proposed”.~~

xvi. ~~Paragraphs 4.1(a) and 4.2(a) of Annex B of the letter shall be revised by:~~

~~(i) replacing “If” at the beginning of the paragraph with “Save as provided in
paragraph 4.3(b) ~~【 and 4.4 (Insert if Section 3.1.1.2(c) of the Guidelines is
applicable) 】~~ below,”; and~~

~~(ii) replacing “In that case” at the beginning of the second sentence with “Save as
aforesaid,”.~~

xvii. ~~Paragraph 4.1(c) of Annex B of the letter shall be revised by replacing the last sentence with
the following:~~

~~“Late notification of the proposed change of the sub-consultant(s) may result in
disqualification of the T&F Proposal because it may deprive the Assessment Panel of a
proper chance to review how the proposed change will affect the shortlist status of the
consultant before the deadline of submission of T&F Proposal.”~~

xviii. ~~Annex B of the letter re-number the original paragraph 4.3 to paragraph 4.3(a) and add the
following new paragraph 4.3(b) as below:~~

~~“If the consultant proposes to engage an individual as a sub-consultant to undertake the sub-
consulting service in his or her own name, the engagement of such sub-consultant is not
subject to the requirements as mentioned in paragraphs 4.1 and 4.2 above. In the event that
the consultant is awarded the consultancy, the consultant shall produce an undertaking signed
by such sub-consultant to confirm that the sub-consultant is an individual undertaking the~~

~~sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

xix. ~~【If Section 3.1.1.2(c) of the Guidelines is applicable】~~ A new paragraph 4.4 shall be added to Annex B of the letter as below:

~~“In the event that the consultant proposes to engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~—【Input the sub-consulting services】—~~

~~the engagement of such sub-consultants is not subject to the requirements as mentioned in paragraphs 4.1 and 4.2 above. A consultant will be regarded as “non-local consultant” if (i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph. In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed above, you shall submit with your Technical Proposal declarations signed by each of such proposed sub-consultants to declare the sub-consultant’s non-local status. Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant’s Technical and Fee Proposals.”~~

xx. Paragraph 5 of Annex B of the letter shall be revised by replacing “listing” with “eligibility” in the first sentence.

xxi. A new Annex B1 shall be added to the letter as below:

~~“———【Annex ____】to Invitation Letter for Technical and Fee Proposal——
Bidding Restrictions~~

~~—【For use if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】—~~

1. ~~Subject to paragraph 2 below, a Technical and Fee Proposal (T&F Proposal) shall not be considered unless it is submitted by a consultant listed in Annex _____【Insert appropriate Annex number】 of the invitation letter.~~

2. ~~If the T&F Proposal is submitted by a joint venture, it must ensure that the same participants were proposed in the earlier Expression of Interest (EOI) submission. The joint venture's T&F Proposal shall not be considered if it fails to comply with this requirement.~~

3. ~~If the consultant proposes one or more sub-consultants to undertake sub-consulting services under the listed service categories maintained by Engineering and Associated Consultants Selection Board ("EACSB") and/or Architectural and Associated Consultants Selection Board ("AACSB"), the consultant may engage any sub-consultants even if they are not listed under the relevant service categories maintained by EACSB or AACSB, as the case may be, provided that~~

- ~~i. the sub-consultants are not suspended from bidding for EACSB consultancy agreements and/or AACSB consultancy agreements in the service categories relevant to the sub-consulting services to be undertaken; and~~
- ~~ii. the sub-consultants are not subject to a debarment period from re-admission after removal from the lists of EACSB and/or AACSB for the service categories relevant to the sub-consulting services to be undertaken~~

~~on or before the date set for the close of submission of T&F Proposal, or if this has been extended, the extended date. Failure to comply with this requirement will lead to disqualification of the consultant's T&F Proposal.~~

4. ~~If a consultant who submits the T&F Proposal has proposed to engage a sub-consultant who has been suspended from bidding for either EACSB consultancy agreements in one or more service categories within the purview of the EACSB or AACSB consultancy agreements in one or more service categories within the purview of the AACSB, and/or who has been subject to a debarment period from re-admission after removal from the lists of EACSB and/or AACSB after the closing date for submission of T&F Proposal, the Assessment Panel may continue the assessment based on the said sub-consultant's status as at the closing date for submission of T&F Proposal. If the consultant concerned attains the highest combined score, the consultant concerned may still be eligible for award of the agreement."~~

xxii. ~~The heading of Annex C of the letter shall be revised by adding “**【This Annex shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**” above the “Invitation for Technical and Fee Proposal”.~~

xxiii. ~~Note (a) of Annex C of the letter shall be deleted and replaced as below:~~

~~“If the consultant proposes to engage one or more sub-consultants for this Assignment, the consultant shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018 (the Guidelines).”~~

xxiv. ~~Note (b) of Annex C of the letter shall be revised by replacing “The” at the beginning of the paragraph with “Save as provided in note (d) **【and (e) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** below, the”.~~

xxv. ~~A new note (d) shall be added after note (c) to Annex C of the letter as below:~~

~~“As mentioned in Section 2.3.1(b)(vi) of the Guidelines, if the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) of the Guidelines. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

xxvi. ~~**【If Section 3.1.1.2(c) of the Guidelines is applicable】** A new note (e) shall be added to Annex C of the letter as below:~~

~~“In the event that the consultant proposes to engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~**【Input the sub-consulting services】**~~

~~the engagement of such sub-consultants is not subject to the requirements as mentioned in Section 2.3.1(b) of the Guidelines. A consultant will be regarded as “non-local consultant”~~

~~if (i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph. In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed above, you shall submit with your Technical Proposal declarations signed by each of such proposed sub-consultants to declare the sub-consultant's non-local status. Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant's Technical and Fee Proposals."~~

xxvii. ~~The heading of Annex D of the letter shall be revised by adding “**【This Annex shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**” above the “Table of Listed and Unlisted Sub-Consultants and Scope of sub-consulting Services to be undertaken”.~~

xxviii. ~~Note (b) of Annex D of the letter shall be deleted and replaced as below:~~

~~“If the consultant proposes to engage one or more sub-consultants for this Assignment, the consultant shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018 (the Guidelines).”~~

xxix. ~~Note (c) of Annex D of the letter shall be revised by replacing “The” at the beginning of the first sentence with “Save as provided in note (e) **【and (f) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** below, the”.~~

xxx. ~~A new note (e) shall be added after note (d) to Annex D of the letter as below:~~

~~“As mentioned in Section 2.3.1(b)(vi) of the Guidelines, if the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) of the Guidelines. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the~~

~~sub consulting service to any parties and the sub consultant, if replaced, will not take part in the same sub consulting service for any other sub consultants to be subsequently engaged by the consultant.”~~

xxxi. ~~【If Section 3.1.1.2(c) of the Guidelines is applicable】~~ A new note (f) shall be added to Annex D of the letter as below:

~~“In the event that the consultant proposes to engage unlisted non local consultants as sub consultants solely for undertaking any of the following sub consulting services in this Assignment:~~

~~—【Input the sub consulting services】—~~

~~the engagement of such sub consultants is not subject to the requirements as mentioned in Section 2.3.1(b) of the Guidelines.—A consultant will be regarded as “non local consultant” if (i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.—In the event that you propose to engage an unlisted non local sub consultant to perform any of the sub consulting services listed above, you shall submit with your Technical Proposal declarations signed by each of such proposed sub consultants to declare the sub consultant’s non local status.—Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant’s Technical and Fee Proposals.”~~

2. ~~When the Assignment is under the Service Category maintained by EACSB and one stage selection process is adopted, the following amendments to the Sample Invitation Letter for Technical and Fee Proposals (for one stage selection process) attached to Appendix 3.4A of EACSB Handbook Revision No. 16 shall be made:~~

i. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ Paragraph 5(iv) of the letter is replaced by the following updated version:

~~“The adjusted all-inclusive time charge rates for additional Services, which are calculated by multiplying the proposed percentage adjustment (being 100% plus the percentage adjustment factors which are not exceeding the range of -30% to +30%) and the all-inclusive time charge rates in the Fee Proposal Proforma, could be different from the staff charge rates indicated in the manning schedule at sub-paragraph (ii) of this paragraph.”~~

ii. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ The paragraph 6 is deleted and replaced by the following updated version:

~~“We shall not accept any Fee Proposal where the lump sum fee on the first page of the Fee Proposal is different from the total fee for the staff and non-staff charges for all stages in the summary breakdown of lump sum fee”~~

iii. ~~【Update if Section 3.4 of the Guidelines regarding the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ The last sentence of paragraph 7 is replaced by the following updated version:

~~“You are not, however, allowed to make any adjustment to the lump sum fee, the percentage adjustment factors for calculating the adjusted all-inclusive time charge rates for additional Services and on-cost rates on the first page of the Fee Proposal (except for the necessary corrections of the percentage adjustment factors pursuant to paragraph 9a below).”~~

iv. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ The first sentence of paragraph 8 is replaced by the following updated version:

~~“In respect of the percentage adjustment factor for each staff category specified in the~~

prescribed Fee Proposal Proforma for “additional Services”, irrespective of the number of sub-consultants that may be involved, only ONE percentage adjustment factor shall be inserted as specified.”

- v. ~~【 Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable 】~~ A new paragraph 9a is added as below:

~~“Your attention is drawn to the requirement to insert the percentage adjustment factors not exceeding the range of -30% to +30% for calculating the adjusted all-inclusive time charge rates for additional Services in respect of each category of staff specified in the prescribed Fee Proposal Proforma, which are essential for bid assessment purpose and the adjusted all-inclusive time charge rates will be used for payment of additional Services/management of the Consultants upon award of the Assignment. If you fail to put in any or all of these factors, the relevant factor(s) shall be corrected by deeming the factor(s) as zero. If the percentage adjustment factor(s) entered by the consultant on the first page of the Fee Proposal for calculating the adjusted all-inclusive time charge rates for additional Services for any or all of the categories of staff is higher than the upper limit of +30%, the relevant percentage adjustment factor(s) shall be corrected to such upper limit. If the percentage adjustment factor(s) entered by the consultant on the first page of the Fee Proposal for calculating the adjusted all-inclusive time charge rates for additional Services for any or all of the categories of staff is lower than the lower limit of -30%, the relevant percentage adjustment factor(s) shall be corrected to such lower limit. We will seek confirmation from you to abide by the bid with the relevant factor(s) so corrected for calculating the adjusted all-inclusive time charge rates for bid assessment purpose and for payment of additional Services/management of the Consultants upon award of the Assignment. If you confirm your agreement to abide by the bid with the factor(s) so proposed and/or corrected, the combined score assessment of Technical and Fee Proposals will then be completed in the prescribed manner in accordance with DEVB-TC(W) No. 2/2016 and No. 5/2018 and their subsequent updates (if any) on the basis of the proposed fee and/or factors with such factor(s) so corrected and confirmed. If you fail to confirm your agreement to abide by the bid with the factor(s) so proposed and/or corrected in writing by a specified deadline, your bid shall not be considered further for this consultant selection exercise.”~~

- vi. ~~【 Update if the enhanced bidding mechanism, specified in Section 3.4 of the Guidelines, is applicable 】~~ The first two sentences of paragraph 10 are deleted and replaced by the following updated version:

~~“Your attention is drawn to the requirement to insert the on-cost rate in respect of each category of staff specified in the prescribed Fee Proposal Proforma for “Direct Employment of Resident Site Staff”, which information is essential for bid assessment purpose and for payment/management of the Consultants upon award of the Assignment.”~~

vii. ~~Paragraph 10a of the letter shall be revised by deleting “tenders and/or” in the last sentence.~~

viii. ~~Paragraphs 14, 14a, 14b and 14d of the letter shall be revised by deleting “is mandatory” and/or “is discretionary” in the square brackets.~~

ix. ~~Paragraphs 14b and 14c of the letter shall be revised by adding “ **【This paragraph shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**” at the end of the paragraph.~~

x. ~~**【If Section 3.1.1.2(c) of the Guidelines is applicable】** Paragraph 14c of the letter shall be deleted and replaced as below:~~

~~“For the avoidance of doubt, apart from the consulting firms on the lists given in Annex _____ to this letter **【Inclusion of Annex E】**, you can also engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~**【Input the sub-consulting services】**~~

~~The Technical and Fee Proposals for this Assignment in respect of the sub-consultants solely for the above services will be evaluated on an equal basis, no matter whether the sub-consultants are on the lists given in Annex _____ to this letter **【Inclusion of Annex E】** or not.”~~

xi. ~~**【If Section 3.1.1.2(c) of the Guidelines is applicable】** A new paragraph 14e shall be added to the letter as below:~~

~~“A consultant will be regarded as “non-local consultant” if:~~

- ~~(i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out in paragraph 14c; or~~

- ~~(ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or~~
- ~~(iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.~~

~~In the event that you propose to engage an unlisted non local sub-consultant to perform any of the sub-consulting services listed in paragraph 14c, you shall submit with your Technical Proposal declarations signed by each of such proposed sub-consultants to declare the sub-consultant's non local status. Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant's Technical and Fee Proposals. A sample declaration letter is attached at Annex _____ of this letter —【Inclusion of Annex I as an Annex to this letter】.”~~

xii. ~~Paragraph 19 of the letter shall be deleted and replaced as below:~~

~~“19. Consultants (these must be consulting firms to be eligible for being considered for this consultant selection exercise) having linkages to each other, e.g. subsidiaries, parent or sister companies are not allowed to bid on the same agreement. Only one firm among such consultants, as the case may be, should be allowed to submit Technical and Fee Proposals for a consultancy agreement. In your Technical Proposal, you are thus required to declare any linkage with other consultants on the list as stated in Paragraph 14 of this invitation letter. For the avoidance of doubt, if you have no linkage with any consultants on the above list, you are also required to declare the same in the Technical Proposals. The existence of a holding subsidiary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap 622), “Sister companies” shall mean all companies which are subsidiaries of or otherwise belonging to the same holding company. Consultants having linkages should sort out among themselves before submitting Technical and Fee Proposals.”~~

xiii. ~~Paragraph 20 of the letter shall be deleted and replaced as below:~~

~~“20. For the purpose of this “no linkage” requirement, an academic institution and any separate entities/companies formed by the same academic institution or any of its current staff, or any two of such entities/companies (whether formed by the same staff or not), shall be regarded as “linked”. An academic institution, and all such entities/companies formed~~

by it or any of its current staff (whether by the same staff or not), shall be allowed to submit only one set of Technical and Fee Proposals for the same consultancy agreement. You are also required to declare any such linkage with other consultants on the list as stated in Paragraph 14 of this invitation letter, if applicable. For the avoidance of doubt, if you have no linkage with any consultants on the above list, you are also required to declare the same in the Technical Proposals. An entity/company is regarded as formed by the academic institution or its staff if the latter is a partner/shareholder or a director of the former, whether or not the latter is a founding partner/subscriber when the entity/company was formed. However, the “no linkage” rule does not apply to “linked” consulting firms (including academic institutions) who bid as sub-consultants only for any agreement.”

xiv. Paragraph 21 of the letter shall be revised by replacing “Failure to observe the requirement” with “Failure to observe the “no linkage” requirement”.

xv. The second sentence of Paragraph 30 of the letter shall be deleted.

xvi. Paragraph 31 of the letter shall be deleted and replaced as below:

“If sub-consultants are to be employed, you are required to complete the table attached in Annex _____ to this letter indicating, if any, the name of each proposed sub-consultant, the scope of sub-consulting services to be undertaken by each listed and unlisted sub-consultant to be employed, the relevant listed service category or discipline for which each sub-consultant is to be employed and the corresponding list maintained and published by the Government (these items of information are collectively referred to in this paragraph as “the sub-consultants’ information”). Failure to submit any item of the sub-consultants’ information in the Technical Proposal, which makes the compliance check with the bidding restrictions as set out in Annex _____ to this letter **【Inclusion of Annex D—see Paragraph 14a. above】** in the respect of engagement of sub-consultants unable to be conducted will lead to disqualification of the consultant’s Technical and Fee Proposal. If you have any enquiry on completing the table on whether the sub-consulting service to be undertaken by a sub-consultant is within the scope of a particular listed service category or discipline and would like to seek clarification, your enquiry must be delivered to me by hand before 12:00 noon, _____ **【the procuring department should specify the exact date here, preferably same as the deadline of provision of list of queries for pre-submission meeting】**. The enquiry shall be sufficiently specific to facilitate the preparation of clarification. Late enquiry will not be entertained. **【Inclusion of Annex G as an Annex to this letter.】**—**【This paragraph shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**”

xvii. ~~(not used).~~

xviii. ~~Paragraph 4.1(a) of Annex D of the letter shall be revised by:~~

- ~~(i) replacing “If” at the beginning of the paragraph with “Save as provided in paragraph 4.3(b) **【** and 4.4 (*Insert if Section 3.1.1.2(c) of the Guidelines is applicable*) **】** below;”;~~
- ~~(ii) replacing “In that case” at the beginning of the second sentence with “Save as aforesaid;”;~~ and
- ~~(iii) replacing “If” at the beginning of the last sentence with “Save as aforesaid, if”.~~

xix. ~~Paragraph 4.2(a) of Annex D of the letter shall be revised by:~~

- ~~(i) replacing “If” at the beginning of the paragraph with “Save as provided in paragraph 4.3(b) **【** and 4.4 (*Insert if Section 3.1.1.2(c) of the Guidelines is applicable*) **】** below;”;~~ and
- ~~(ii) replacing “In that case” at the beginning of the second sentence with “Save as aforesaid;”.~~

xx. ~~Annex D of the letter re-number the original paragraph 4.3 to paragraph 4.3(a) and add the following new paragraph 4.3(b) as below:~~

~~“If the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in paragraphs 4.1 and 4.2 above. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

xxi. ~~**【If Section 3.1.1.2(c) of the Guidelines is applicable】** A new paragraph 4.4 shall be added to Annex D of the letter as below:~~

~~“In the event that the consultant proposes to engage unlisted non local consultants as sub-consultants solely for undertaking any of the following sub consulting services in this Assignment:~~

~~—【Input the sub consulting services】—~~

~~the engagement of such sub consultants is not subject to the requirements as mentioned in paragraphs 4.1 and 4.2 above.—A consultant will be regarded as “non local consultant” if (i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.—In the event that you propose to engage an unlisted non local sub consultant to perform any of the sub consulting services listed above, you shall submit with your Technical Proposal declarations signed by each of such proposed sub consultants to declare the sub consultant’s non local status.—Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant’s Technical and Fee Proposals.”~~

xxii. ~~Paragraph 5 of Annex D of the letter shall be revised by replacing “listing” with “eligibility” in the first sentence.~~

xxiii. ~~A new Annex D1 shall be added to the letter as below:~~

~~“—————【Annex ____】to Invitation Letter for Technical and Fee Proposal——
Bidding Restrictions~~

~~—【For use if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】—~~

~~1.—Subject to paragraph 2 below, a Technical and Fee Proposal (T&F Proposal) shall not be considered unless it is submitted by a consultant listed in Annex ____ 【Refer to Annex C to this sample invitation letter】 of the invitation letter.~~

~~2.—If the T&F Proposal is submitted by a joint venture, at least one of the participants or shareholders shall be on the initial list shown in Annex ____ 【Refer to Annex C to this sample invitation letter】 of the invitation letter.—The joint venture’s T&F Proposal shall not be~~

considered if it fails to comply with this requirement.

~~3. If the consultant proposes one or more sub-consultants to undertake sub-consulting services under the listed service categories maintained by Engineering and Associated Consultants Selection Board (“EACSB”) and/or Architectural and Associated Consultants Selection Board (“AACSB”), the consultant may engage any sub-consultants even if they are not listed under the relevant service categories maintained by EACSB or AACSB, as the case may be, provided that~~

- ~~i. the sub-consultants are not suspended from bidding for EACSB consultancy agreements and/or AACSB consultancy agreements in the service categories relevant to the sub-consulting services to be undertaken; and~~
- ~~ii. the sub-consultants are not subject to a debarment period from re-admission after removal from the lists of EACSB and/or AACSB for the service categories relevant to the sub-consulting services to be undertaken~~

~~on or before the date set for the close of submission of T&F Proposal, or if this has been extended, the extended date. Failure to comply with this requirement will lead to disqualification of the consultant’s T&F Proposal.~~

~~4. If a consultant who submits the T&F Proposal has proposed to engage a sub-consultant who has been suspended from bidding for either EACSB consultancy agreements in one or more service categories within the purview of the EACSB or AACSB consultancy agreements in one or more service categories within the purview of the AACSB, and/or who has been subject to a debarment period from re-admission after removal from the lists of EACSB and/or AACSB after the closing date for submission of T&F Proposal, the Assessment Panel may continue the assessment based on the said sub-consultant's status as at the closing date for submission of T&F Proposal. If the consultant concerned attains the highest combined score, the consultant concerned may still be eligible for award of the agreement.”~~

~~xxiv. The heading of Annex E of the letter shall be revised by adding “**【This Annex shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable】**” above the “Invitation for Technical and Fee Proposal”.~~

~~xxv. Note (a) of Annex E of the letter shall be deleted and replaced as below:~~

~~“If the consultant proposes to engage one or more sub-consultants for this Assignment, the~~

consultant shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018 (the Guidelines).”

xxvi. ~~Note (b) of Annex E of the letter shall be revised by replacing “The” at the beginning of the paragraph with “Save as provided in note (d) —~~ **【and (e) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable)】** ~~below, the”.~~

xxvii. ~~A new note(d) shall be added after note (c) to Annex E of the letter as below:~~

~~“As mentioned in Section 2.3.1(b)(vi) of the Guidelines, if the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) of the Guidelines. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant.”~~

xxviii. ~~【If Section 3.1.1.2(c) of the Guidelines is applicable】 A new note (e) shall be added to Annex E of the letter as below:~~

~~“In the event that the consultant proposes to engage unlisted non-local consultants as sub-consultants solely for undertaking any of the following sub-consulting services in this Assignment:~~

~~—【Input the sub-consulting services】—~~

~~the engagement of such sub-consultants is not subject to the requirements as mentioned in Section 2.3.1(b) of the Guidelines. A consultant will be regarded as “non-local consultant” if (i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub-consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above~~

~~of this paragraph. In the event that you propose to engage an unlisted non-local sub-consultant to perform any of the sub-consulting services listed above, you shall submit with your Technical Proposal declarations signed by each of such proposed sub-consultants to declare the sub-consultant's non-local status. Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant's Technical and Fee Proposals."~~

xxix. ~~The heading of Annex G of the letter shall be revised by adding " **【 This Annex shall not be included if Sections 3.1.1.2(a) and/or (b) of the Guidelines are applicable 】**" above the "Table of Listed and Unlisted Sub-Consultants and Scope of sub-consulting Services to be undertaken"~~.

xxx. ~~Note (b) of Annex G of the letter shall be deleted and replaced as below:~~

~~"If the consultant proposes to engage one or more sub-consultants for this Assignment, the consultant shall comply with the relevant bidding restrictions stipulated in Section 2.3.1 of the Guidelines attached to DEVB TC(W) No. 5/2018 (the Guidelines)."~~

xxxi. ~~Note (c) of Annex G of the letter shall be revised by replacing "The" at the beginning of the first sentence with "Save as provided in note (e) **【 and (f) (Insert if Section 3.1.1.2(c) of the Guidelines is applicable) 】**" below, the"~~.

xxxii. ~~A new note (e) shall be added after note (d) to Annex G of the letter as below:~~

~~"As mentioned in Section 2.3.1(b)(vi) of the Guidelines, if the consultant proposes to engage an individual as a sub-consultant to undertake the sub-consulting service in his or her own name, the engagement of such sub-consultant is not subject to the requirements as mentioned in Sections 2.3.1(b)(i) to 2.3.1(b)(v) of the Guidelines. In the event that the consultant is awarded the consultancy, the consultant shall produce an undertaking signed by such sub-consultant to confirm that the sub-consultant is an individual undertaking the sub-consulting service in his or her own name, the sub-consultant will not contract out all or any part of the sub-consulting service to any parties and the sub-consultant, if replaced, will not take part in the same sub-consulting service for any other sub-consultants to be subsequently engaged by the consultant."~~

xxxiii. ~~**【 If Section 3.1.1.2(c) of the Guidelines is applicable 】** A new note (e) shall be added to Annex G of the letter as below:~~

~~“In the event that the consultant proposes to engage unlisted non local consultants as sub-consultants solely for undertaking any of the following sub consulting services in this Assignment:~~

~~—【Input the sub consulting services】—~~

~~the engagement of such sub consultants is not subject to the requirements as mentioned in Section 2.3.1(b) of the Guidelines.—A consultant will be regarded as “non local consultant” if (i) the consultant is a natural person who, as at the closing date of the submission of Technical and Fee Proposals, is yet to obtain a working visa / entry permit issued by the Director of Immigration to stay in Hong Kong for the purpose of undertaking any of the sub consulting services set out above; or (ii) the consultant is an entity which is not incorporated in Hong Kong under Companies Ordinance (Cap. 622) on the closing date of the submission of Technical and Fee Proposals; or (iii) if the consultant is an unincorporated association or firm whose participating parties or partners are all natural persons described in item (i) above of this paragraph.—In the event that you propose to engage an unlisted non local sub consultant to perform any of the sub consulting services listed above, you shall submit with your Technical Proposal declarations signed by each of such proposed sub consultants to declare the sub consultant’s non local status.—Failure by a consultant to submit such declarations with its Technical Proposal and upon request will lead to disqualification of the consultant’s Technical and Fee Proposals.”~~

~~Annex F to Sample Invitation Letter for T&F Proposal (Two Stage) /~~
~~Annex I to Sample Invitation Letter for T&F Proposal (One Stage)~~

Sample Declaration Letter

Consultancy Agreement No. _____
(Agreement Title)

To: ~~The Government of the HKSAR~~

We declare that we are non-local having regard to the definition of “Non local” in Clause 15d ~~【For two stage consultant selection】~~ / 14e ~~【For one stage consultant selection】~~ of the Invitation Letter for the subject Agreement.

Name of Sub-consultant: _____

Signature of person authorised to sign the declaration letter: _____

Name in block letters _____

Telephone number: _____

Date: _____

D. SAMPLE FEE PROPOSAL PROFORMA

(The amendments to the sample fee proforma in the Guidelines Revision No. 2 have been subsumed in the EACSB Handbook Revision No. 16.)

1. The following amendments to the ~~sample fee proforma~~ attached to Appendix 3.13 of EACSB Handbook Revision No. 16 shall be made:

- i. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ Insert the following table to the first page of the Sample Fee Proforma:

~~ALL INCLUSIVE TIME CHARGE RATES FOR ADDITIONAL SERVICES~~

Staff Category _____	All-inclusive time charge rate (HK\$/man-hour)⁺	Percentage Adjustment Factor (%)^{<}
^{&}Partners/Directors (P/D)		
^{&}Chief Professional Staff (CP)		
^{&}Senior Professional Staff (SP)		
^{&}Professional Staff (P)		
^{&}Assistant Professional Staff (AP)		
^{&}Technical Staff (T)		

Remarks:

~~——~~ [<] The percentage adjustment factors for additional Services shall not exceed the range of -30% to +30% and are subject to correction in accordance with DEVB TC(W) No. 5/2018 and paragraph [——] ~~【Insert appropriate paragraph number】~~ of the Invitation Letter for Submission of Technical and Fee Proposals.

~~——~~ ⁺ To be inserted by managing department based on the latest set of all-inclusive time charge rates published by DEVB before invitation of Technical and Fee Proposals. [only for reference of the department's staff]

- ii. ~~【Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ The first sentence of paragraph i of the “Notes on the Preparation of Fee Proposals” is replaced by the following updated version:

~~“Before the Fee Proposal forms are sent to the shortlisted consultants, the Client Department must enter the Agreement title and number, the technical/ consultancy fee/ fee quality weighting, the notional man-hours for additional Services, the latest set of all-inclusive time charge rates published by DEVB and the date on which the completed proposal must be delivered.”~~

- iii. ~~【 Update if the enhanced bidding mechanism (with the use of referenced staff rates of additional Services), specified in Section 3.4 of the Guidelines, is applicable】~~ The paragraph 3 of the “Notes on the Preparation of Fee Proposals” is replaced by the following updated version:

~~“The percentage adjustment factors entered in the Fee Proposal for calculating the adjusted all inclusive time charge rates for additional Services will be used for payment for additional Services not covered by the Brief. In addition, the adjusted all inclusive time charge rates for additional Services will be applied with the notional man hours for additional Services to arrive at the ‘adjusted notional value for additional Services’ to be used for fee assessment purposes. Please refer to the Schedule of Fees for details.”~~

- iv. The second blind note in Part D shall be deleted and replaced as below:

~~“A conversion factor of 50.00 man hours/man week shall be adopted throughout the calculation.”~~

- v. The first sentence of Paragraph 7 of the Notes on the Preparation of Fee Proposals shall be revised as below:

~~“The details required in Part E should be provided by using as many sheets as necessary if more than 20 personnel are involved.”~~

- vi. The Paragraph 8 of the Notes on the Preparation of Fee Proposals shall be revised as below:

~~“Combined score assessment of Technical and Fee Proposals will be carried out in accordance with the EACSB Handbook on Selection, Appointment and Administration of Engineering and Associated Consultants and any subsequent related Circulars, DEVB TC(W) No. 2/2016 and No. 5/2018 and their subsequent updates (if any)”~~

~~E. SAMPLE TEMPLATE FOR GUIDELINES ON PREPARATION OF TECHNICAL PROPOSAL~~

~~(The amendments to the sample template for Guidelines on Preparation of Technical Proposal in the Guidelines Revision No. 2 have been subsumed in the EACSB Handbook Revision No. 16.)~~

~~1. The following amendments to the **Sample Template for Guidelines on Preparation of Technical Proposal** attached to Appendix 3.4B of EACSB Handbook Revision No. 16 shall be made:~~

~~i. Item (c) in Sub-section 7—Appendices of Part A—Requirement of Technical Proposals shall be replaced as below:~~

~~“(c) Manning schedule (**without** any indication of cost and in occasions where errors are identified in the tender assessment, the relevant correction rules in Annex ____ **【Inclusion of Annex A to the Sample Template for Guidelines on Preparation of Technical Proposal as an Annex】** shall be followed to handle the errors where appropriate); and”~~

~~ii. Item (d) in Sub-section 7—Appendices of Part A—Requirement of Technical Proposals shall be replaced as below:~~

~~“(d) Brief curriculum vitae and employment status of key staff;—~~

~~iii. The paragraph and table under the heading of Staffing—Relevant experience and qualification of key staff under Sub-section 2 of Part B—Marking Scheme shall be replaced as below:~~

~~“For attaining full mark (i.e. grade VG), a consultant should provide the minimum number of core personnel who should possess the corresponding minimum qualification and experience as mentioned in the tables below. Same marks shall be allocated to the core personnel under the same designation. If the number of core personnel proposed by the consultant for a particular designation is more than that specified in the invitation documents, the average marks attained by the core personnel for that particular designation would be adopted in tender assessment. If the number of core personnel proposed by the consultant for a particular designation is less than that specified in the invitation documents, the core personnel proposed will be marked based on the relevant selection criteria while the core personnel missing in the submission will be graded “P”.~~

Appendix 3.3

Core Personnel Designation	Post Qualification– Experience	Relevant Job– Reference	Grade
[Project Director] (Mark: XX%) Minimum number: [1] Minimum qualification of a [P/D] category	Not less than [20] years	Not less than [5] projects	VG
	Not less than [18] years	Not less than [3] projects	G
	Not less than [15] years	Not less than [1] project	F
	Fail to provide the core personnel or meet the standard above		P

Core Personnel Designation	Post Qualification– Experience	Relevant Job– Reference	Grade
[Project Manager] (Mark: YY%) Minimum number: [1] Minimum qualification of a [CP] category	Not less than [18] years– (professional); or Not less than [23] years– (academic)	Not less than [5] projects	VG
	Not less than [15] years– (professional); or Not less than [20] years– (academic)	Not less than [3] projects	G
	Not less than [12] years– (professional); or Not less than [17] years– (academic)	Not less than [1] project	F
	Fail to provide the core personnel or meet the standard above		P

Core Personnel Designation	Post Qualification– Experience	Relevant Job– Reference	Grade
[Team Leader] (Mark: ZZ%) Minimum number: [1] Minimum qualification of a [CP] category	Not less than [18] years– (professional);–	Not less than [5] projects	VG
	Not less than [15] years– (professional);–	Not less than [3] projects	G
	Not less than [12] years– (professional);–	Not less than [1] project	F
	Fail to provide the core personnel or meet the standard above		P

Core Personnel Designation	Post Qualification— Experience	Relevant Job— Reference	Grade
{Team Leader} (Mark: ZZ%) Minimum number: {1} Minimum qualification of a {CP} category	Not less than {18} years— (professional); or Not less than {23} years— (academic)	Not less than {5}— projects	VG
	Not less than {15} years— (professional); or Not less than {20} years— (academic)	Not less than {3}— projects	G
	Not less than {12} years— (professional); or Not less than {17} years— (academic)	Not less than {1}— project	F
	Fail to provide the core personnel or meet the— standard above		P

- iv. ~~The blind note under the heading of Staffing—Relevant experience and qualification of key staff under Sub-section 2 of Part B—Marking Scheme shall be deleted and replaced as below:~~

~~“N.B: The sum of marks allocated to all Core Personnel shall be 100. Add additional tables if required. In addition, the job reference to be counted as relevant may be elaborated to suit the specific nature of project where appropriate. Also, the need of post qualification experience in the respect of academic shall be reviewed to see if it is relevant to the discipline of the key staff so specified for the staff category of “Chief Professional”. In particular, where there exist professional institutions in the discipline of the relevant professional, it is less likely that post qualification academic experience may be relevant.”~~

- v. ~~Item (a) under the heading of Staff working under an overloading situation under Sub-section 3 of Part B—Marking Scheme shall be deleted and replaced as below:~~

~~“(Applicable to consultancies with T&F Proposals to be closed **before** 23 September 2023) Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating to enable the procuring departments to endorse it for existing consultancies (i.e. consultancies with Expression of Interest Submissions or Technical and Fee Proposals (for one stage procedure) invited before 3 December 2018). For the purpose of tender assessment in this regard, a consultant will be considered as failing to provide the first manpower input updating for an existing consultancy if it fails to provide a manpower input updating which enables the procuring department of the existing consultancy~~

concerned to endorse it in the PWCRAR as described in paragraph 2 of Appendix 3.7 to DEVB TC(W) No. 5/2018 for all the reporting quarters before the tender closing date of the tender under assessment;

—

~~(Applicable to consultancies with T&F Proposals to be closed on or after 23 September 2023) Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating for any on-going consultancies (i) which are undertaken by the consultant or any of its proposed sub-consultant as the sole consultant or one of the participants in the joint venture, and (ii) of which the technical proposals did not contain manning schedules enabling the assessment of overloading situation in accordance with this Guidelines to be properly performed and hence the overloading situations were marked as “Serious” in the consultant selection exercises of such on-going consultancies. For the purpose of tender assessment in this regard, a consultant will be considered as failing to provide the first manpower input updating for an on-going consultancy if it fails to provide a manpower input updating which enables the procuring department of the on-going consultancy concerned to endorse it in the PWCRAR as described in paragraph 2 of Appendix 3.7 to DEVB TC(W) No. 5/2018 before the tender closing date of the tender under assessment; or”~~

- vi. ~~Item (b) under the heading of Staff working under an overloading situation under Sub-section 3 of Part B—Marking Scheme shall be deleted and replaced as below:~~

~~“Where the consultant:~~

- ~~(i) fails to submit a manning schedule with its Technical Proposal; and/or~~
- ~~(ii) only submits a manning schedule in a bar chart format or other format with its Technical Proposal, which makes the assessment of overloading situation in accordance with DEVB TC(W) No. 5/2018 unable to be properly performed.”~~

~~Annex A to Sample Template for Guidelines on Preparation of Technical Proposal~~Correction rules for Manning Schedule

- ~~1. The manning schedule should be submitted in both the prescribed electronic format and hard copy format in accordance with the manning schedule template provided in the invitation documents. No amendment should be made on the prescribed format of the manning schedule template such as addition or deletion of columns, changing the commencement date of the agreement, etc.~~
- ~~2. Where a correction rule for manning schedule provided in this paragraph is applicable, the error shall be corrected in accordance with that rule.~~
 - ~~a. If the manning schedule is submitted in both the electronic format and hard copy format, the electronic format shall prevail. If the manning schedule in the submission is made in hard copy format only, the provision of the same manning schedule in the prescribed electronic format may be requested. In such circumstance, the manning schedule in hard copy format in the submission made on or before the tender closing date shall prevail.~~
 - ~~b. Any manpower input data with more than 2 decimal places will be rounded off to 2 decimal places.~~
 - ~~c. If there is any discrepancy between the total manpower input calculated from the monthly breakdown in the manning schedule and the one input in the manning schedule, the total manpower input calculated from the monthly breakdown (after correction if any) in the manning schedule shall prevail.~~
 - ~~d. If there is no monthly breakdown input for a month of a particular staff, the manpower input for that month of the staff in concern will be marked as zero.~~
 - ~~e. If a negative manpower input is input for a month of a particular staff, the following corrections will be adopted:~~
 - ~~(i) the manpower input for that month of the staff concerned will be marked as zero;~~
 - ~~(ii) the last month of the staff concerned with positive manpower input will be adjusted downward to even out the net increase in the manpower input due to the correction in item (i) of this paragraph; and~~
 - ~~(iii) if the manpower input of the month becomes zero after the correction in item (ii) of this paragraph but the net increase has yet been fully evened out, the correction in item (ii) will be applied to the second last month with positive manpower input and so on until the net increase is fully evened out.~~

- f. ~~If the number of months shown in the manning schedule submitted is more than the number of months shown in the template provided in the invitation documents, the manpower input in the manning schedule prior to the first month and/or beyond the last month shown in the template will not be considered in the tender assessment and will be discarded. If any number of months shown in the template is omitted in the submitted manning schedule, the manpower input for those omitted month(s) in the submitted manning schedule will be taken as zero in the tender assessment.~~
 - g. ~~If the manpower input of a month of a particular staff is input in two separate rows in the manning schedule, the manpower input for that month of the staff in concern will be equal to the sum of the manpower input for that month in those two rows.~~
 - h. ~~In the occasion where the consultant has proposed a staff member with the submission of its qualification and experience (e.g. CVs) in the Technical Proposal but such staff member is NOT a named staff member in the manning schedule, such staff member shall be treated as an unnamed staff member and its qualification and experience mentioned in the Technical Proposal shall not be considered in the tender assessment.~~
3. ~~In the event that none of the above correction rules is applicable, where the error relates to factual information, and there is no room for manipulation by virtue of subsequent correction; or where the correction of such error would not give the bidder an advantage over the other bidders, clarification may be sought from the bidder and modification to the manning schedule may be allowed.~~
 4. ~~In the event that any of the above correction rule(s) is applicable and resulting in update of the total manpower input of any staff category, confirmation from the bidder to abide by the bid with the corrected total manpower input may be sought. If the bidder fails to confirm its agreement to abide by the bid with the total manpower input so corrected in writing by a specified deadline, its bid shall not be considered further for the consultant selection exercise.~~

F. STANDARD FORM OF SCHEDULE OF FEES

1. The following amendments to the standard form of schedule of fees attached to Appendix 4.2 of EACSB Handbook Revision No. 16 shall be made:

i. ~~【 Update if the enhanced bidding mechanism, specified in Section 3.4 of the Guidelines, is applicable 】~~ The terms “all inclusive hourly rates” in Clauses 9(A) to 9(G) are revised to “adjusted all inclusive hourly rates”

ii. ~~【 Update if the enhanced bidding mechanism, specified in Section 3.4 of the Guidelines, is applicable 】~~ The sentence in the second square bracket in Clause 9(A) is replaced by the following updated version:

~~“* Insert in the Agreement the products of the all inclusive time charge rates in the Fee Proposal Proforma and the percentage adjustment (being 100% plus the percentage adjustment factor (with corrections if necessary) in the Fee Proposal) for signing.”~~

~~G. DETAILS ON CHECKING OF COMPLIANCE WITH SPECIFIED PERCENTAGE RANGE, WORKED EXAMPLE FOR ASCERTAINING FEE QUALITY SCORE AND SAMPLE TEMPLATE FOR DEFINING DEGREE OF NON COMPLIANCE WITH MINIMUM ACADEMIC/PROFESSIONAL QUALIFICATIONS AND/OR MINIMUM EXPERIENCE AND STAFF WORKING UNDER OVERLOADING SITUATION~~

~~1. The following amendments to the standard form of schedule of fees attached to Appendix 3.16 of EACSB Handbook Revision No. 16 shall be made:~~

~~i. Note (c) under the heading of “Sample Template for Defining Degree of Staff Working under Overloading Situation” shall be replaced by the following updated version:—~~

~~(c) Notwithstanding the above, the following circumstances shall be considered by the Assessment Panel as “Serious” overloading situation:~~

~~(i) (Applicable to consultancies with T&F Proposals to be closed **before** 23 September 2023) Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating to enable the procuring departments to endorse it for existing consultancies (i.e. consultancies with Expression of Interest Submissions or Technical and Fee Proposals (for one-stage procedure) invited before 3 December 2018). For the purpose of tender assessment in this regard, a consultant will be considered as failing to provide the first manpower input updating for an existing consultancy if it fails to provide a manpower input updating which enables the procuring department of the existing consultancy concerned to endorse it in the PWCRAR as described in paragraph 2 of Appendix 3.7 to DEVB TC(W) No. 5/2018 for all the reporting quarters before the tender closing date of the tender under assessment; or~~

~~(Applicable to consultancies with T&F Proposals to be closed **on or after** 23 September 2023) Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating for any on-going consultancies (i) which are undertaken by the consultant or any of its proposed sub-consultant as the sole consultant or one of the participants in the joint venture, and (ii) of which the technical proposals did not contain manning schedules enabling the assessment of overloading situation in accordance with this Guidelines to be properly performed and hence the overloading situations were marked as “Serious” in the consultant selection exercises of such on-going consultancies. For the purpose of tender assessment in this regard, a consultant~~

~~will be considered as failing to provide the first manpower input updating for an on-going consultancy if it fails to provide a manpower input updating which enables the procuring department of the on-going consultancy concerned to endorse it in the PWCRAR as described in paragraph 2 of Appendix 3.7 to DEVB TC(W) No. 5/2018 for before the tender closing date of the tender under assessment; or~~

~~(ii) —Where the consultant:—~~

~~(1) — fails to submit a manning schedule with its Technical Proposal; and/or~~

~~(2) —only submits a manning schedule in a bar chart format or other format with its Technical Proposal, which makes the assessment of overloading situation in accordance with DEVB TC(W) No. 5/2018 unable to be properly performed.~~

Sample Template for Manning Schedule (to be updated from time to time)

Manning Schedule to be Submitted Quarterly during execution of the Agreement:

Agreement No.
Actual Commencement Date of the Agreement
Reporting month

CE 99-2020 (TEST)
11-04-2021
Mar-2022

No. No. 2	Surname (Please in 11 & 12)	First Name (11 & 12)	Resident/RO Overseas N/A	HKID/Pass port No. (11 & 12) (Character)	Company Name (Please in 11 & 12)	Position	Contract/Overseas Unassigned	Staff Category (P, O, C, SP, P, AP & T)	Total Manpower Input (Man-Weeks) (Please in 11 & 12)	Cumulative Manpower Input (Man-Weeks) up to 30 Nov 2021	2021-11	2021-10	2021-09	2021-08	2021-07	2021-06	2021-05	2021-04	2021-03	2021-02	2021-01
1																					
2																					
Total (Please in 11 & 12)										0.00	0.00										

N.B. (i) All staff which have been involved or to be involved should be included.
(ii) If conversion between man-hour and man-week is required, a conversion factor of 50 hours/week is to be adopted.
(iii) If conversion from man-month to man-week is required, a conversion factor of 4 weeks per month is normally adopted.

Guidelines for uploading of file to Consultant Performance Information System (CPIS)

- Please check if agreement no., commencement date of the agreement and reporting month (cells [145], [146] and [145]) are correct.
- Mandatory fields are marked with **.
- Please provide manpower input deployed in the reporting quarter (i.e. the 3-month period before the reporting month) (column L, M & N) and the forecast manpower input in the following columns.
- Please fill in staff information below the staff information header row (from row 11) and ensure that numbering below "No." column (column A) is inserted continuously down the column.
- Name of company by which the staff are directly employed shall be filled in. If the sub-consultant is a person who is self-employed, please fill in the full name of the person as per HKID / Passport.
- Please use the name in the company name worksheet when filling the company name. If the staff are employed by a consulting firm not found in the company name worksheet, please fill in the full company name.
- If the anticipated completion date of the Agreement has to be extended, please fill in the additional months in the header row (row 10) continuously down the row. Manpower input data in the column without month in the header row (row 10) will cause failure in uploading the manpower input data.
- Please fill in manpower input data in the unit of man-week. Any manpower input data with more decimal places will be rounded off to 2 decimal places before being used for calculation. Formula should not be used.
- Total estimated manpower input will be calculated by the PWCRAR when the Excel file is uploaded. No separate input by consultant is required.
- For named staff, full name as per HKID / Passport shall be filled in.
- For unnamed staff, the surname should be named as "UNNAMED", Staff Category, e.g. UNNAMED-T, Agreement no. should be used as first name, and "TDNA" should be used as HKID / Passport No. Please select "N/A" in "Resident/RO Overseas/N/A" column (column D). "N/A" should be used as "Company Name" and "Position".
- Manpower input for unnamed staff under the same staff category should be grouped into one row only.

* Cell, row and column information in the guideline marked in red refers to the reference location in Excel format.

**Public Works Consultants Resources Allocation Register (PWCRRAR),
Development Bureau (Works Branch) and all Bureaux/Departments procuring or managing
engineering consultancy services¹⁾**

STATEMENT OF PURPOSE FOR THE COLLECTION OF PERSONAL DATA

Purpose of Collection

1. The personal data provided by means of the attached form will be used for the following purposes:
 - (a) activities relating to the management of the status of the Consultant under the List of Consultants (the List) under the purview of the Engineering and Associated Consultants Selection Board (EACSB) of the Government, including any regulating actions against the Consultant such as downgrading, suspension or removal from the List;
 - (b) activities relating to the award of consultancies including but not limited to the assessment of the Consultant's tenders for consultancies. The Consultant is obliged to provide updated information about his company profile including his employees, projects undertaken etc.
 - (c) activities relating to management of consultancies including but not limited to the monitoring of manpower resources provided and the assessment of consultant's performance.
 - (d) compilation of statistical report and diagnosis of problems with or concerning PWCRRAR or the management of consultants to help the Government to improve.
2. If the Consultant fails to provide the required information in the attached form, the consequences would be:
 - (a) for forms associated with his application related to the List or his status in the List, his application could not be proceeded with and/or his status in the List might be adversely affected and/or regulating actions might be imposed;
 - (b) for forms associated with his submission for tender, his tender could not be assessed and considered further; and
 - (c) for forms associated with his submission of manpower resource in the course of the execution of the consultancy agreements, his performance assessment in the consultancies with respect to the adherence to staffing proposal could be adversely affected due to his non-fulfilment of the contractual obligations and regulating actions might be imposed.

Classes of Transferees

3. The personal data provided by the Consultant may be disclosed to other Government bureaux and departments for the purposes of managing the status of Consultants in the List, assessing their tenders for consultancies or management of consultancies.

4. The personal data provided by means of the attached form may be disclosed to the Commissioner of Police or law enforcement agencies for the purposes of law enforcement when appropriate.
5. In addition to the above, except for consultancy agreements with invitation for submission of Technical and Fee Proposals or quotation before 3rd December 2018, the personal data provided by the Consultant for the purpose mentioned in sub-clause 1(c) above only, including the names of each of the professional staff, the agreements in which he is deployed / to be deployed and his amount of time input in the respective agreements, may be disclosed to a third party including but not limited to consultants who are involved in or in connection with other tendering exercises for consultancies managed by any Government bureaux and departments.

Access to Personal Data

6. The data subject has a right of access and correction with respect to personal data as provided for in Section 18 & 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. The right of access includes the right to obtain a copy of his/her personal data provided by means of this form.

Enquiries

7. Enquiries concerning the personal data collected by the attached form, including the making of access and corrections, should be addressed to:

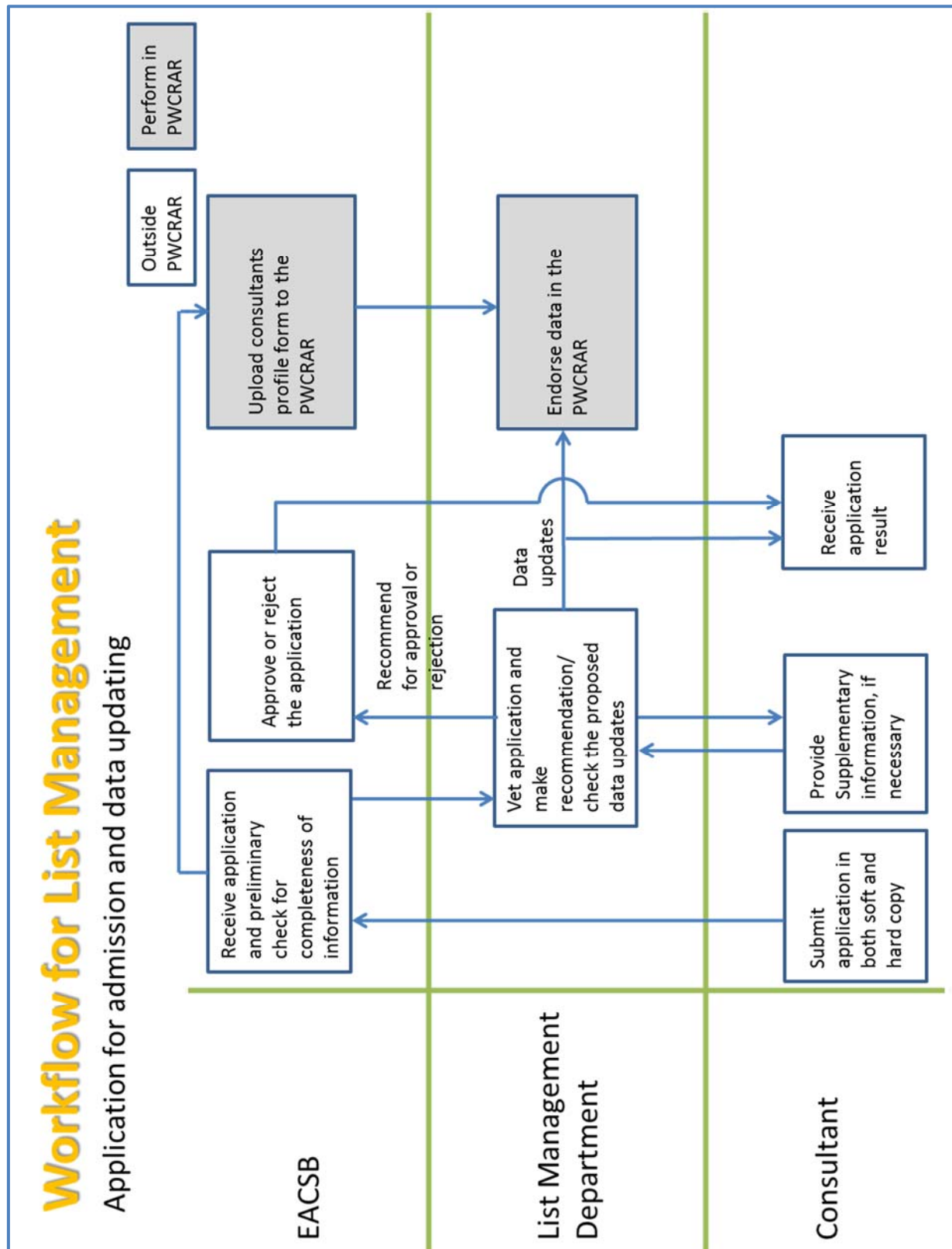
Works Policy 4
Works Branch
Development Bureau
15/F, West Wing, Central Government Offices,
2 Tim Mei Avenue, Tamar, Hong Kong
Email: pwcrar_admin@devb.gov.hk

Note:

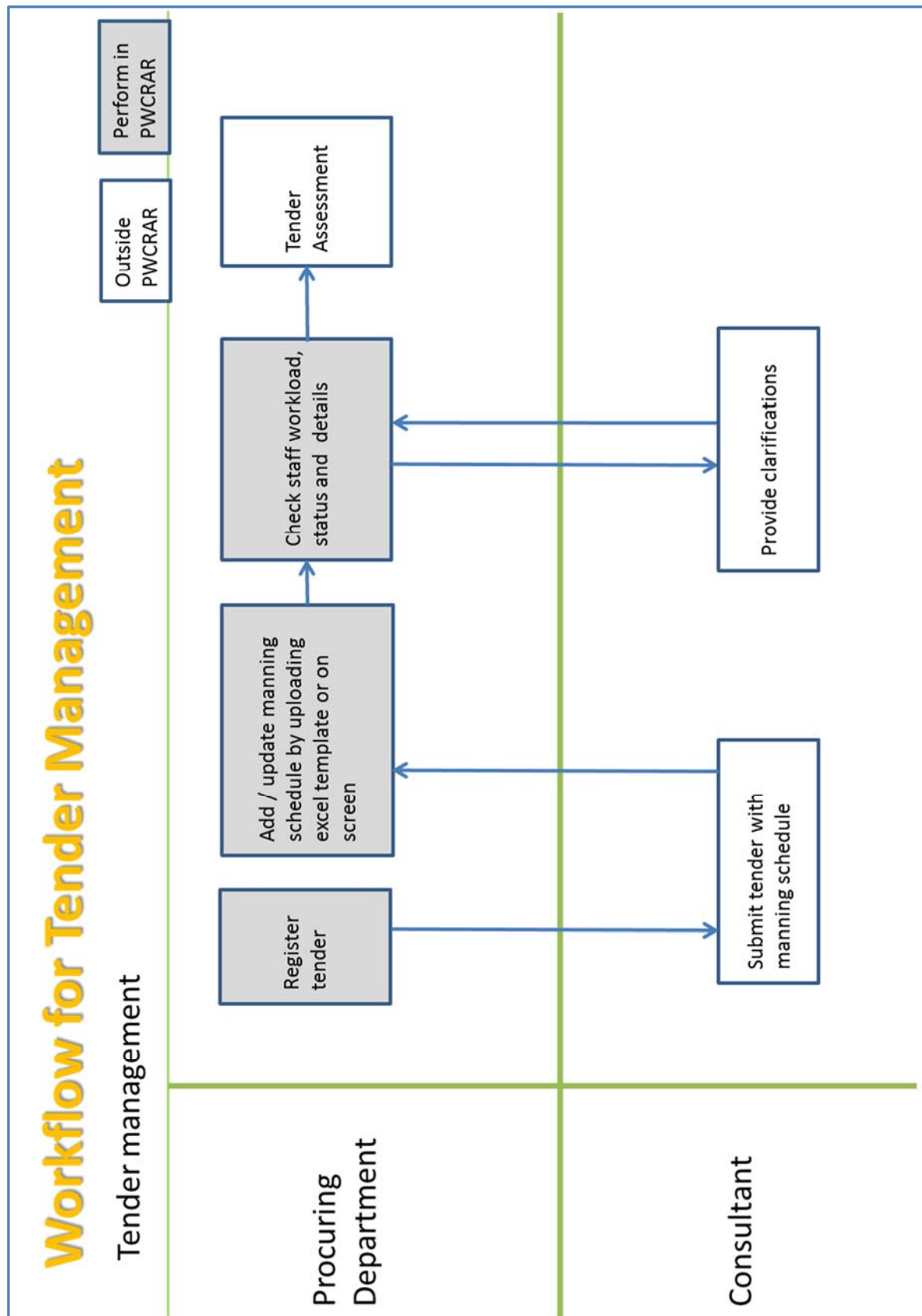
- 1 Other Bureaux/Departments procuring or managing engineering consultancy services including but not limited to Transport and Housing Bureau, Architectural Services Department, Buildings Department, Civil Engineering and Development Department, Drainage Services Department, Electrical and Mechanical Services Department, Environmental Protection Department, Home Affairs Department, Highways Department, Lands Department, Planning Department, Transport Department and Water Supplies Department.

Workflow in PWCRAR (subsumed in CNPIS)

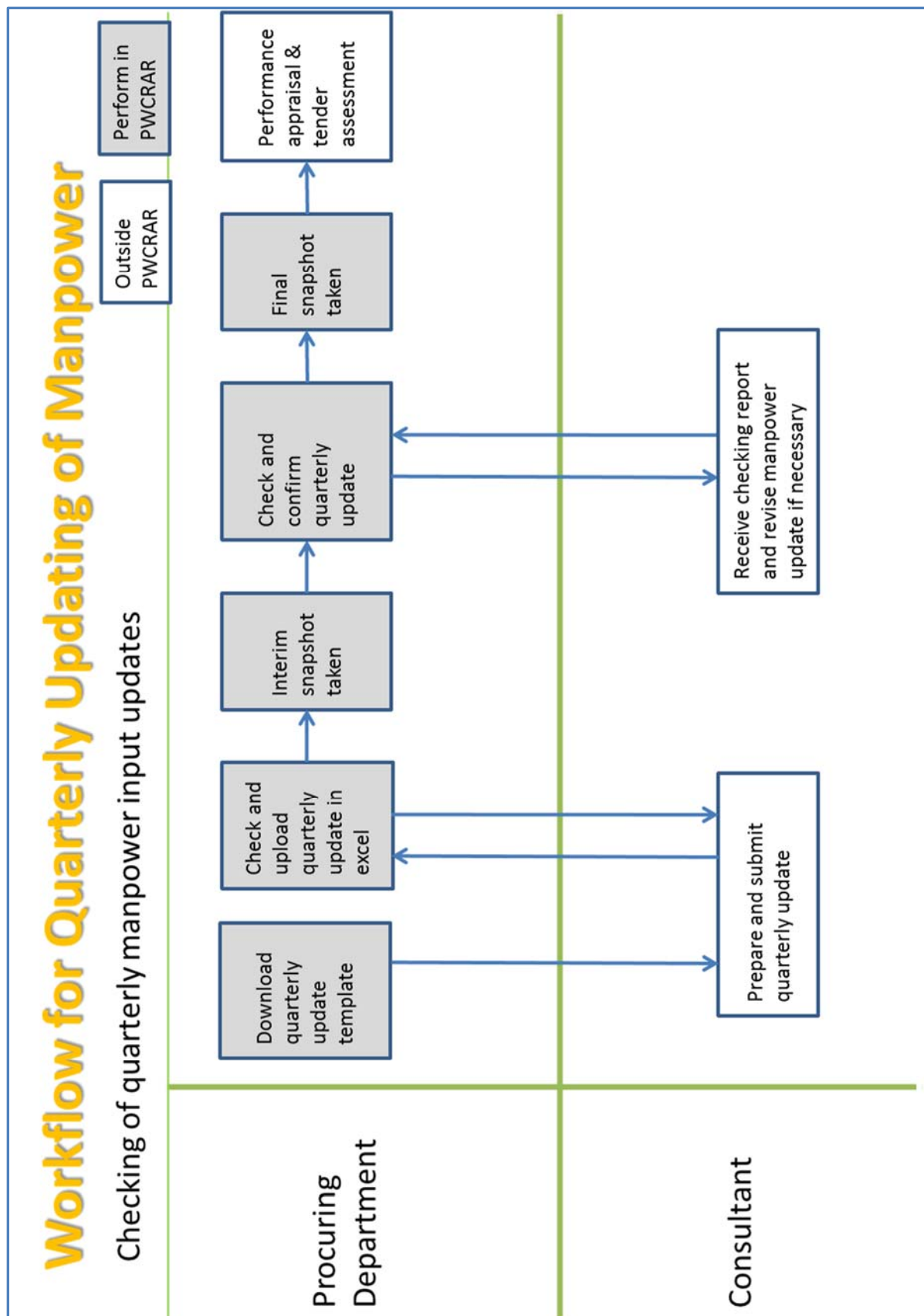
A. List Management



B. Tender Management



C. Quarterly Updating of Manpower



Overloading Checking in Tender Assessment**1 Checking of Suspected Overloading**

- 1.1 Prior to invitation of Technical and Fee (T&F) Proposals, the procuring departments shall register the bidding exercise in the Public Works Consultants Resources Allocation Register (PWCRAR) and then download the manning schedule templates together with the personal information collection statements to form part of the invitation documents for the T&F Proposals. Any subsequent change of the information of the consultancies before the closing date for submission of T&F Proposal shall be updated in the PWCRAR. In particular, if the update involves change in the consultancy duration, the procuring departments shall download and send the revised manning schedule templates together with the personal information collection statements to the bidders before the aforesaid closing date.
- 1.2 After the aforesaid closing date, the procuring departments shall upload or manually input the manning schedules submitted by the bidders into the PWCRAR as soon as practicable. While the PWCRAR allows the procuring departments to upload/manually input the manning schedules to the system separately, the procuring department shall only confirm the manning schedules uploaded in the system in the same bidding exercise in one go to ensure the completeness of the data.
- 1.3 When the procuring departments find that the total manpower input calculated from the manning schedule (softcopy) does not tally with the figures stated in the T&F Proposal, the total manpower input calculated from the manning schedule (softcopy) shall prevail. The procuring departments shall follow the current practice to correct the discrepancies in both the Technical Proposals and Fee Proposals and then seek confirmation from the bidders to abide by their tenders with the corrected total manpower input.
- 1.4 To avoid confusion, the “reporting month” used in the following paragraphs shall refer to the month in which the final snapshots are taken (i.e. March, June, September and December) and the “reporting quarter” shall refer to the 3-month period immediately before the reporting month (e.g. the period from March to May is the reporting quarter for the reporting month of June).
- 1.5 For the purpose of assessing the “Adequacy of professional and technical manpower input” attribute of the T&F Proposals, the manpower input of on-going consultancies as at end of the reporting quarter which are captured in the final snapshot taken immediately before the tender closing date of the tender under assessment shall be used to check for any suspected overloading situation. Please note that the PWCRAR will take final snapshot on all the manpower input data in the system at 00:00 on 23rd of every reporting month and generate reports for various purposes, including performance appraisal and tender assessment. The procuring departments

shall upload and confirm in the PWCRAR the manpower input of their tenders before making submissions to the EACSB Secretariat requesting the release of Fee Proposals.

2 Clarifications on Suspected Overloading

- 2.1 When the procuring departments upload or manually input the manning schedule submitted by the bidders, the PWCRAR will base on the HKID/Passport No. and the name of the staff to check whether the staff concerned has been/ will be deployed for other consultancies registered in the PWCRAR (i.e. overlapping cases). If the PWCRAR identifies any suspected overlapping case, such as two persons with the same HKID/passport No. and surname but different first names, it will alert the procuring departments accordingly. The procuring departments may consider seeking clarifications from the bidders on the suspected overlapping case. Upon clarification, the procuring departments shall update the PWCRAR accordingly. In addition, in occasions where errors are identified in the manning schedule submitted by the bidders, procuring departments shall follow the relevant correction rules in the invitation documents to handle the errors where appropriate.
- 2.2 After the confirmation of the manning schedule in the PWCRAR by the procuring departments, the PWCRAR will check for any suspected overloading situation (i.e. staff working for more than 4 man-week per month) (Checking report Nos. TEN-RPT-01 and 02 are relevant). The procuring department shall also refer to Checking report Nos. TEN-RPT-04 to check for any outstanding first manpower input updating in the existing /on-going consultancies of which the technical proposals did not contain manning schedules enabling the assessment of overloading situation in accordance with DEVB TC(W) No. 5/2018 to be properly performed at that time¹⁷. Checking reports on any suspected overloading situation and/or outstanding submission of manning schedule are available in the PWCRAR for reference.
- 2.3 The Assessment Panel may consider seeking clarifications from the bidders on the overloading situations and/or the submission status of manning schedule. Sample letters are attached at **Appendices 3.9 and 3.9A** for reference. In any circumstance, the principles stipulated in Stores

¹⁷ For final snapshot of manpower taken **before** 23 September 2023, a summary of existing consultancies (i.e. consultancies with EOI Submissions or T&F Proposals (for one-stage procedure) invited before 3 December 2018) without the first manpower input updating will be reported in TEN-RPT-04. For final snapshot of manpower taken **on or after** 23 September 2023, a summary of on-going consultancies failing to provide the first manpower input updating which enables the procurement department of the on-going consultancy concerned to endorse it in the PWCRAR before the tender closing date of the tender under assessment will be reported in TEN-RPT-04.

and Procurement Regulations 365 regarding the clarification of tenders shall be strictly observed.

- 2.4 The Assessment Panel may consider taking into account the clarifications provided by the tenderers, if any, in determining whether there are overloading situations in the T&F Proposals concerned. Modification may be allowed where it does not give the bidder an advantage and where the modification concerned is factual. The assessment and the associated assessment result shall be discussed and endorsed by the Assessment Panel. Legal advice may be sought if considered necessary. The procuring departments shall include the correspondences with LAD(W) and provide the deliberations/decisions of the Assessment Panel on the assessment of overloading situation of individual tenderers in EACSB submission.

3 Assessment Method

- 3.1 The reasons for overloading may be due to:

- (a) on-going consultancy(ies);
- (b) the tender under assessment; or
- (c) a combination of (a) & (b) above.

- 3.2 For paired tenders, the procuring departments shall ensure that the two tenders are closed on the same day so that the PWCRAR can refer to the manpower input in the same final snapshot for calculating the overloading percentage for these two tenders.

- 3.3 The manpower input of the tender under assessment together with that of the on-going consultancy(ies) are then summed up to arrive at the total expected manpower input. The amount of total expected manpower input of a particular staff in excess of 4 man-weeks per month will be considered as an overloading case. The weighted average overloading manpower input for all overloading cases will be used in calculating the overloading percentage which will in turn be used to determine the reduction factor to be applied to the mark given to the “Adequacy of professional and technical manpower input” attribute of the T&F Proposal in accordance with **Appendix 3.2(A)** of the Guidelines. If a proposed key staff member has its manpower input stated under more than one staff categories in the Technical Proposal and such proposed key staff member is found to be working under overloading situation, the highest weighting among the staff categories stated for such staff member shall be used in calculating the overloading percentage. A worked example and a sample report generated by the PWCRAR on details of overloading situation are attached in **Appendix 3.10** and **Appendix 3.11** respectively. Please note that the procuring departments shall have the responsibility to check the calculations done by the PWCRAR based on the data contained in the above report.

3.4 Notwithstanding the above, after checking the checking report No. TEN-RPT-04, the following circumstances shall be considered by the Assessment Panel as "Serious" overloading situation:

(a) *(Applicable to consultancies with T&F Proposals to be closed **before** 23 September 2023)*

Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating to enable the procuring departments to endorse it for existing consultancies (i.e. consultancies with Expression of Interest Submissions or Technical and Fee Proposals (for one-stage procedure) invited before 3 December 2018). For the purpose of tender assessment in this regard, a consultant will be considered as failing to provide the first manpower input updating for an existing consultancy if it fails to provide a manpower input updating which enables the procuring department of the existing consultancy concerned to endorse it in the PWCRAR as described in paragraph 2 of Appendix 3.7 to DEVB TC(W) No. 5/2018 for all the reporting quarters before the tender closing date of the tender under assessment; or

*(Applicable to consultancies with T&F Proposals to be closed **on or after** 23 September 2023)* Where the consultant or any of its proposed sub-consultant fails to provide the first manpower input updating for any on-going consultancies (i) which are undertaken by the consultant or any of its proposed sub-consultant as the sole consultant or one of the participants in the joint venture, and (ii) of which the technical proposals did not contain manning schedules enabling the assessment of overloading situation in accordance with this Guidelines to be properly performed and hence the overloading situations were marked as "Serious" in the consultant selection exercises of such on-going consultancies. For the purpose of tender assessment in this regard, a consultant will be considered as failing to provide the first manpower input updating for an on-going consultancy if it fails to provide a manpower input updating which enables the procuring department of the on-going consultancy concerned to endorse it in the PWCRAR as described in paragraph 2 of Appendix 3.7 to DEVB TC(W) No. 5/2018 for before the tender closing date of the tender under assessment; or

(b) Where the consultant

- (i) fails to submit a manning schedule with its Technical Proposal; and/or
- (ii) only submits a manning schedule in a bar chart format or in other formats with its Technical Proposal, which makes the assessment of overloading situation in accordance with DEVB TC(W) No. 5/2018 unable to be properly performed.

Quarterly Updates of Manpower Input

1 Manpower Input to be Updated

- 1.1 To avoid confusion, the “reporting month” and “reporting quarter” used in the following paragraphs shall have the same meaning as those used in **Appendix 3.6** of the Guideline.
- 1.2 The consultants are required to submit curriculum vitae (CV) for the key staff proposed in their Technical and Fee (T&F) Proposals. To demonstrate their adherence to the staffing proposal, the consultants are required to submit quarterly updates on the manpower input for each named staff at professional category or above included in their T&F Proposals. The staff who replaces one of the named staff shall also be a named staff and its manpower input shall be provided for monitoring when staff re-deployment is required. For the unnamed staff, their manpower input shall be grouped together under each staff category.
- 1.3 In the quarterly updates, the following information on the manpower input as at end of the reporting quarter shall be included:
 - (a) the manpower input of both the named and unnamed staff deployed in the reporting quarter; and
 - (b) the manpower input of both the named and unnamed staff to be deployed for the remaining duration of the consultancy.

2 Quarterly Updates of Manpower Input for the Consultancies

- 2.1 The Public Works Consultants Resources Allocation Register (PWCRAR) has been programmed to generate a quarterly update template based on the manpower input in the previous reporting quarter under each consultancy to facilitate the quarterly updating exercise. The procuring departments should download and send the template to consultants to facilitate the consultants to prepare the next quarterly updates. The consultants shall submit to the procuring departments quarterly updates by the ~~5th~~^{9th} of every reporting month. The PWCRAR allows the consultants to submit quarterly updates direct to the PWCRAR through registered email accounts. When such function is not available, the consultants shall submit the quarterly updates to the respective reporting officer of the procuring departments.
- 2.2 Upon receipt of the quarterly updates, the procuring departments shall check the updates and liaise with the consultants for clarifications and amendments if necessary. If the procuring departments consider that the quarterly updates submitted by the consultants are generally in order, the procuring departments shall upload/manually input the manpower data into the PWCRAR.

- 2.3 After uploading the updated manpower input but before taking interim snapshots as mentioned in the paragraph below, the procuring departments can make use of the PWCRAR to conduct preliminary checking on the quarterly updates by comparing them with the manpower input data in the final snapshots of the last reporting quarters. If necessary, the procuring departments may send the preliminary checking results downloaded from the PWCRAR to the consultants for review and clarification if necessary.
- 2.4 The PWCRAR will take interim snapshots at 00:00 on the 16th of every reporting month on the manpower input data that has been confirmed by the procuring departments as properly input in the system and generate checking reports on any overloading situations. For performance appraisal purpose, the PWCRAR will determine the overloading situation based on the manpower input of the concerned staff under all on-going consultancy(ies), excluding those having commenced for more than 10 years. If the manpower input updates in the PWCRAR have not been confirmed by the procuring departments before the interim snapshots are taken, the PWCRAR will copy the manpower input updates in final snapshots of the last reporting quarters to interim snapshots as if there is no further update to such manpower input. The procuring departments shall send the checking reports to the consultants for review and clarification if necessary.
- 2.5 The consultants shall liaise with the procuring departments if they want to amend the manpower input data in the checking reports as soon as possible, in any case before final snapshot is taken, or otherwise the consultants will be deemed to have no comment on the manpower input data in the checking reports. Any amendments to the manpower input data in the checking reports shall be re-confirmed by the procuring departments before final snapshots are taken.
- 2.6 The PWCRAR will take final snapshots at 00:00 on the 23rd of every reporting month on the manpower input data that has been confirmed by the procuring departments and generate various types of reports. The procuring departments shall send the checking reports to the consultants for retention/reference. If any manpower input updates for an agreement in the PWCRAR have not been confirmed by the procuring departments before the final snapshots are taken, the PWCRAR will copy the manpower input updates in interim snapshots to final snapshots as if there is no further update to such manpower input.
- 2.7 The manpower input in the final snapshots taken at 00:00 on the 23rd of every reporting month will be used for checking overloading situation in tender assessment of other consultancies. In this connection, any proposed amendment to the manpower input in the final snapshots after the 23rd of the reporting month will only be considered under very exceptional circumstances.

3 Existing Consultancies

- 3.1 For the purpose of this Appendix, “existing consultancies” means signed consultancies and consultancies having Expression of Interest Submissions or T&F Proposals (for one-stage procedure) invited before 3 December 2018.
- 3.2 The first manpower input updating for existing consultancies should follow the procedures as mentioned in paragraphs 1 & 2 above, with the refinements in paragraph 3.3 to 3.4 below.
- 3.3 Notwithstanding the last sentence of paragraph 1.2 above, manpower input updates of unnamed staff are not required for existing consultancies;
- 3.4 Notwithstanding paragraph 1.3 above, the following information on the manpower input as at end of the reporting quarter shall be included in the quarterly updates for existing consultancies:
 - (a) the manpower input of the named staff at professional category or above deployed in the reporting quarter;
 - (b) the manpower input of the named staff at professional category or above to be deployed for 1 year (for Feasibility Study or Investigation type of assignment) or 2 years (for Design and Construction or Investigation, Design and Construction type of assignment) in the future counting from the beginning of the respective reporting month; and
 - (c) the manpower input of named staff deployed and to be deployed by the sub-consultants in (a) and (b) above respectively is to be excluded.

4 Newly Awarded Consultancies

- 4.1 For consultancies newly awarded within the reporting quarter, the procuring department shall update the consultancy status in the PWCRAR from a tendering stage to an on-going stage. The update shall be carried out in a timely manner and in any case before the interim snapshot taken so that the latest status of the consultancy can be reflected in the interim snapshot. In updating the PWCRAR, some basic information is required to be entered, such as the award date and the actual commencement date.
- 4.2 Upon change of consultancy status from a tendering stage to an on-going stage in the PWCRAR, the manning schedule proposed by the consultant who wins the bid will become the “draft” manpower input for the newly awarded consultancy and be included in the quarterly update template. The procuring department shall require the consultant to review and update the “draft” manpower input where appropriate in the first quarterly updating. If update on the “draft” manpower input is not required or has not been confirmed by the procuring departments before

the interim snapshot is taken, the updating procedures mentioned in paragraphs from 2.4 to 2.6 shall follow and the “draft” manpower input will be incorporated in the checking reports to be sent to the consultant.

- 4.3 There are circumstances in which the consultant did not submit a manning schedule or only submit a manning schedule in bar chart format or in other formats with its technical proposal for the consultancy in the tendering stage, which makes the assessment of overloading situation in accordance with DEVB TC(W) No. 5/2018 unable to be properly performed. In case the consultancy is awarded to such consultant, the “draft” manpower input for the newly awarded consultancy in the PWCRAR as mentioned in paragraph 4.2 above will be empty. If update on such empty “draft” manpower input has not been confirmed by the procuring departments before the final snapshot is taken, the manpower input of the consultancy will remain empty in the final snapshot. Under such circumstance, the consultant will be included in the checking report No. TEN-RPT-04¹⁸ for the concerned reporting quarter for the purpose of tender assessment in accordance with paragraph 3.4(a) in **Appendix 3.6** of the Guidelines.

5 Additional Services

- 5.1 The PWCRAR has a function to allow the procuring department to key in the manpower input for each additional service instructed under a consultancy to facilitate the monitoring of the total manpower input by the consultants.
- 5.2 After an additional service is instructed, the procuring department should input the relevant data, such as the date of instruction and the agreed manpower input, of the additional service into the PWCRAR for record and monitoring of the overall manpower input to be provided by the consultants.
- 5.3 In view that there may be difficulties for the consultants to divide and record manpower inputs for individual additional service under the consultancy, the consultants are normally not required to provide a separate return of manpower input for individual additional service in the quarterly updates. The additional manpower input could be included in the quarterly updates under such circumstances.

6 Consultancies Commenced for More Than 10 years

- 6.1 Consultants will not be required to submit quarterly updates on manpower input for on-going

¹⁸ For final snapshot of manpower taken on or after 23 September 2023.

consultancies which have commenced for more than 10 years. The last update is required for the reporting quarter within which the 10th anniversary date falls. Thereafter, the consultants will not be required to submit further quarterly update and the PWCRAR will not capture the manpower input of the consultancies concerned in the snapshots to be taken in the next reporting month and onward.

7 Completion of Consultancies

- 7.1 If the anticipated completion date of the on-going consultancy is advanced, the consultant may simply update the manpower input for the months beyond the revised completion date as zero. However, if the anticipated completion date is deferred, the consultant shall insert additional columns in the spreadsheet and fill in the associated manpower input for the extended period accordingly.
- 7.2 After the actual completion of the consultancy, the procuring departments shall require the consultants to submit the last update on manpower input for that reporting quarter.
- 7.3 If the procuring department does not confirm the manpower input of the last update in the PWCRAR before the interim snapshot is taken, the updating procedures mentioned in paragraphs from 2.4 to 2.6 shall follow. In this case, if the end date of the previously confirmed manpower input is earlier than the actual completion date, the PWCRAR will automatically input zero for the months in between in the interim and final snapshots. On the other hand, if the end date of the previously confirmed manpower input is latter than the actual completion date, the PWCRAR will only include the manpower input up to the actual completion date in the interim and final snapshots.

Special Conditions of Employment Clause

[Remarks: For agreements adopting NEC PSC, please refer to the latest library of Standard Additional Conditions of Contract published on DEVB's website:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/practice_notes_nec_professional_services_contract/index.html]

SCE()

Submission of Manpower Input

(A) Without prejudice to the generality of Clause 11 of the General Conditions of Employment, the Consultants shall submit to the Director's Representative details of all staff deployed and/or to be deployed in the performance of the Services in the form, manner and for the purposes specified in the Brief.

(B) The Consultants or any of the sub-consultants, including any staff employed by them in the performance of the Services, shall be deemed to have read the SCE, the relevant part of the Brief, particularly the personal information collection statement (hereinafter referred to as "the Statement") in the form specified, and have given their consent to the Employer to disclose to any parties for the purposes as stated in the Statement without further reference to the Consultants or any of the sub-consultants, including any staff employed by them.

(C) The Consultants shall submit to the Director's Representative, when the information in sub-clause (A) are submitted, a signed declaration in a form prescribed or approved by the Director's Representative (a sample of which is attached in Appendix XX) to confirm that the information in sub-clause (A) submitted is true to the best of Consultants' knowledge and belief and is adherence to the staffing proposal made at the tender stage (or as subsequently updated to suit the latest development of the assignment) and to confirm that the Consultants and any of the sub-consultants, including all staff employed in the performance of the Services are aware of this SCE Clause [], the relevant part of the Brief, particularly the personal information collection statement concerned, and have given consent to the Employer to disclose to any parties for the purposes as stated in the Statement.

(D) The Consultants shall waive and forego their right, if any, to make any

Appendix 3.8

claims against the Employer for any losses, damages, costs, charges, liabilities, demands, proceedings and actions that may arise out of or in consequence of such disclosure by the Employer.

Sample Declaration Form by Consultants
on their compliance with requirements on the submission of manpower input

(to be attached to the manpower input submitted by the Consultants)

To: Director's Representative

Agreement No.:

Title:

In accordance with the SCE Clause []:

(1) We confirm that the information regarding manpower input deployed and/or to be deployed for this Agreement as indicated in the manning schedule updated as at end of [month] is true to the best of our knowledge and belief and is adherence to the staffing proposal made at the tender stage (or as subsequently updated to suit the latest development of the assignment).

(2) We further confirm that we and any of our sub-consultants, including any staff employed in the performance of the Services, are aware of this SCE Clause [], the relevant part of the Brief, particularly the personal information collection statement ("the Statement") concerned, and have given consent to the Employer to disclose to any parties for the purposes as stated in the Statement without further reference to us or any of our sub-consultants, including any staff employed.

(Name of the Consultants)	
(Name of the Signatory)	
(Position of the Signatory)	
(Date)	

Clauses for Checking of Manpower Input provided by Consultants

Clauses 15.2 and 15.3 of the feasibility assignment, Clauses 16.2 and 16.3 of the investigation assignment and Clauses 17.2 and 17.3 of the design and construction assignment should be replaced with the clauses as follows:

- X.2 The Consultants shall provide the staff and manpower input in accordance with the Technical Proposal which was submitted with the Consultants' tender for this Assignment, or the quarterly manpower input updates as stated in sub-clause 6 below if available. The Director's Representative shall have the right to check the time-log record of the Consultants' staff deployed for the Assignment.
- X.3 If the Director's Representative considers that the performance of the Consultants is not satisfactory due to inadequate staffing and manpower input allocated to the Assignment, the Consultants shall, upon the request of the Director's Representative, forthwith submit to the Director's Representative the time-log record of the staff deployed for the Assignment for the Director's Representative to check against the Technical Proposal, or the quarterly manpower input updates as stated in sub-clause 6 below if available.

The following clauses should be added to the Section "Consultants' Office and Staffing" of the Brief:

- X.6 The Consultants shall follow the relevant requirements stipulated in Development Bureau Technical Circular (Works) No. 5/2018 or its latest revision or replacement and submit to the Director's Representative quarterly updates on the manpower input deployed and/or to be deployed by the Consultants under the Assignment for checking and monitoring with the use of Public Works Consultants Resources Allocation Register (PWCRAR) in accordance with the relevant mechanism mentioned in the same technical circular. The Consultants shall provide clarifications on the manpower input to the Director's Representative upon request.
- X.7 The Consultants agree that the quarterly updates as mentioned in sub-clause 6 above would be inputted into the PWCRAR for purposes as mentioned in the personal information collection statement to be sent to the Consultants with the templates for the quarterly updates, which shall include but not limited to the following:

- (a) activities relating to the management of the status of the Consultant under the List of Consultants (the List) under the purview of the Engineering and Associated Consultants Selection Board (EACSB) of the Government, including any regulating actions against the Consultant such as downgrading, suspension or removal from the List;
- (b) activities relating to the award of consultancies including but not limited to the assessment of the Consultant's tenders for consultancies;
- (c) activities relating to management of consultancies including but not limited to the monitoring of manpower resources provided and the assessment of Consultant's performance; and
- (d) compilation of statistical report and diagnosis of problems with or concerning PWCRAR or the management of consultants to help the Government to improve.

**SAMPLE LETTER TO TENDERER SEEKING
CLARIFICATION ON OVERLOADING SITUATION**

Dear Sirs,

Agreement No.

Agreement Title

I refer to your Technical and Fee Proposals submitted for the captioned Consultancy Agreement dated DD/MM/YYYY.

According to our records as at end of MM/YYYY [*the procuring department shall input the end month of the reporting quarter as at which the manpower input is as captured in the final snapshot taken immediately before the tender closing date of the tender under assessment*], there is/are staff member(s) in your Technical and Fee Proposal who is/are identified to be working under an overloading situation as shown in the attached checking report [*the procuring department shall attach Report No. TEN-RPT-01 downloaded from the PWCRAR to this letter*] after taking into account their manpower input deployed or to be deployed in other consultancies. Please confirm by DD/MM/YYYY whether there is or will be an overloading situation of the staff member(s) concerned as reflected in the attached checking report. If there is not, please provide your clarifications as to the intended workload of the staff member(s) concerned by the above due date for our consideration. If we do not receive your reply by the above due date, we would proceed with the tender assessment based on the overloading situation as shown in the attached checking report accordingly.

In your reply, you are only allowed to provide factual information about the involvement of the proposed staff member(s) in other consultancies and are not allowed to replace the proposed staff member(s) by other staff member(s), and/or change the time input of the proposed staff member(s) in the manning schedule of your Technical and Fee Proposal.

For the avoidance of doubt, in the performance of the assignment, if awarded to you, you are bound to provide the manpower input under each relevant staff category in accordance with your proposal. If any proposed staff member(s) is to work under an overloading situation, you are deemed to agree to rectify the overloading situation at your cost by making appropriate replacement with other staff member(s), redistributing workload to other staff member(s), and/or providing additional staff member(s) with equal or better qualifications and experience than the proposed staff member(s). The re-deployment of staff member(s) in this regard shall be subject to the approval procedures as if there

is a change of core personnel under the assignment.

Please note that this letter should NOT be counted as you are being selected for the award of this assignment.

Yours faithfully,

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Sample Checking Report (to be updated from time to time)**RESTRICTED**

Report Title : TEN-RPT-01 Overloading Situation Summary For Tender Assessment
Report Generation Date: 06/03/2020
Selection criteria:
Department: Civil Engineering and Development Department
Agreement No.: CE 02/2020 (TEST)
Staff: OverLoaded
Tenderer: CEDD Non-Listed Consultant 1
Agreement Title: CE 02/2020 (TEST) Title
Tender closing Date: 01/03/2020
Anticipated Commencement Date: 20/03/2020

Name	Staff Category	Figure in tender (cumulative with on-going agreements, cumulative with on-going agreement and submitted tender) (man-week)									
		Mar 2020	Apr 2020	May 2020	Jun 2020	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020
DAVID WONG	Chief Professional (CP)	2.00(7.00,7.00)	2.00(7.10,7.10)	2.00(7.20,7.20)	2.00(5.60,5.60)	2.00(4.60,4.60)	2.00(4.60,4.60)	2.00(4.60,4.60)	2.00(4.60,4.60)	2.00(4.60,4.60)	2.00(4.60,4.60)

Remarks: For consultancies with T&F Proposals closed on or after 23 March 2023, concurrent tender will not be taken into account in the overloading checking during the assessment of the Technical Proposals.

**SAMPLE LETTER TO TENDERER SEEKING
CLARIFICATION ON SUBMISSION OF MANNING SCHEDULE**

Dear Sirs,

Agreement No.

Agreement Title

I refer to your Technical and Fee Proposals submitted for the captioned Consultancy Agreement dated DD/MM/YYYY.

According to our records as at end of MM/YYYY [*procuring department shall input the end month of the reporting quarter as at which the manpower input is as captured in the final snapshot taken immediately before the tender closing date of the tender under assessment*], you failed to provide the first manpower input updating for the *existing / *on-going consultancy agreement No. _____.

Please confirm by DD/MM/YYYY whether you have provided the first manpower input updating in accordance with the relevant requirements for the above agreement(s). If affirmative, please advise the date and means of your submission. Please do not submit the first manpower input updating in response to this letter. If we do not receive your reply and the date and means of submission by the above due date, we would consider that you have failed to provide the first manpower input updating and would proceed with the tender assessment in accordance with the relevant provisions in the Guidelines on Preparation of Technical Proposal accordingly.

In your reply, you are only allowed to provide factual information about the submission status of the manning schedule(s) concerned. You are not allowed to replace the proposed staff member(s) by other staff member(s), and/or change the time input of the proposed staff member(s) in the manning schedule of your Technical and Fee Proposal.

Please note that this letter should NOT be counted as you are being selected for the award of this assignment.

Yours faithfully,

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* Delete where appropriate

Note: **【This notes in italics are only for reference of the departments' staff】**

- *Procuring department shall download the checking report No. TEN-RPT-04 for the final snapshot taken immediately before the tender closing date of the tender under assessment from the PWCRAR to respectively check for any outstanding first manpower input updating in the:
(1) existing consultancies (applicable to consultancies with T&F Proposals to be closed **before** 23 September 2023) ;or
(2) on-going consultancies (applicable to consultancies with T&F Proposals to be closed **on or after** 23 September 2023).
as captured in the final snapshot used for tender assessment.*
- *The procuring department shall seek clarifications from the consultant if the consultant (including any of its participant(s) in case of joint venture) or any of its proposed sub-consultant(s) is observed in the checking report No. TEN-RPT-04.*

(Not Used)

A Worked Example for Determining Overloading Percentage

Technical and Fee Proposals are received from Consultants W for Assignment A which adopts a total weighted manpower ratio of 4:2:1 for Partner/Director & Chief Professional : Senior Professional & Professional : Assistant Professional & Technical. After checking with the PWCRAR and seeking confirmation from the consultants on the overloading situation, the reduction factors for the “Adequacy of Professional and Technical Manpower Input” attributes in tender assessment are calculated as follows.

The tables shaded in grey are related to the manpower input of other on-going consultancies in the PWCRAR, and the computation is carried out by the PWCRAR which will not be presented to the procuring departments.

Overloading due to on-going consultancies

The manning schedule submitted by Consultants W for Assignment A is shown in the table below.

Staff	Staff Category	No. of man-week per month												Total
		1	2	3	4	5	6	7	8	9	10	11	12	
S1	PD	1	-	1	-	1	-	1	-	1	-	1	-	6
S2	CP	-	0.5	-	0.5	-	0.5	-	0.5	-	0.5	-	0.5	3
S3	CP	0.5	-	0.5	-	0.5	-	0.5	-	0.5	-	0.5	-	3
	SP	2	2	2	2	2	2	2	2	2	2	2	2	24
S4	P	3	3	3	3	3	3	3	3	3	3	3	3	36
S5	P	3	3	3	3	3	3	3	3	3	3	3	3	36
S6	AP	3	3	3	3	3	3	3	3	3	3	3	3	36
S7	AP	3	3	3	3	3	3	3	3	3	3	3	3	36
S8	T	3	3	3	3	3	3	3	3	3	3	3	3	36
S9	T	3	3	3	3	3	3	3	3	3	3	3	3	36
S10	T	3	3	3	3	3	3	3	3	3	3	3	3	36

Table 1 - The manning schedule proposed by Consultants W for Assignment A

Based on the manning schedule in Table 1, the total weighted average manpower input proposed by Consultants W for Assignment A is 60 man-weeks as follows:

$$\begin{aligned}
 &= (4 / 7) \times (6 + 3 + 3) + (2 / 7) \times (24 + 36 + 36) + (1 / 7) \times (36 + 36 + 36 + 36 + 36) \\
 &= 60 \text{ man-weeks}
 \end{aligned}$$

The PWCRAR identifies that Consultants W have been working on one on-going consultancy.

The manpower input of named professional staff of Consultants W in the on-going consultancy who have also been involved in Assignment A is recorded by the PWCRAR as below:

Staff	Staff Category	No. of man-week per month												Total
		1	2	3	4	5	6	7	8	9	10	11	12	
S1	PD	1	-	1	-	1	-	1	-	1	-	1	-	6
S2	CP	-	1	-	1	-	1	-	1	-	1	-	1	6
S3	SP	2	2	2	2	2	2	2	2	2	2	2	2	24
S4	P	3	3	3	3	3	3	3	3	3	3	3	3	36
S5	P	2	2	2	2	2	2	2	2	2	2	2	2	24

Table 2 - The manpower input of concerned named professional staff of Consultants W in the on-going consultancy

Based on Tables 1 and 2, the PWCRAR will determine the overloading situation as follows. Procuring departments can obtain this information from the situation report downloaded from the PWCRAR.

Staff	Staff Category	No. of man-week per month												Total
		1	2	3	4	5	6	7	8	9	10	11	12	
S3	CP&SP	0.5	-	0.5	-	0.5	-	0.5	-	0.5	-	0.5	-	3
S4	P	2	2	2	2	2	2	2	2	2	2	2	2	24
S5	P	1	1	1	1	1	1	1	1	1	1	1	1	12

Table 3 - Named professional staff of Consultants W in Assignment A with overloading situation

As Staff S3 is found to be working under overloading situation, the weighting of CP will be used for its overloading assessment. Based on Table 3, the PWCRAR will calculate the weighted average overloading manpower input as 12 man-weeks and show the result in the situation report:

$$= (4 / 7) \times 3 + (2 / 7) \times (24 + 12)$$

$$= 12 \text{ man-weeks}$$

Given the above, the PWCRAR will calculate the overloading percentage due to the on-going consultancy and show the result in the situation report:

$$= 12 / 60 \times 100\%$$

$$= 20\% \quad (\text{i.e.} \geq 10\%)$$

Hence, the procuring department shall apply a reduction factor of 0.75 (to be agreed by Assessment Panel) to the marks given to “Adequacy of Professional and Technical Manpower Input” attribute for Consultants W in Assignment A accordingly.

Sample Report of Overloading Situation Details for Tender Assessment

(to be updated from time to time)

RESTRICTED													
Report Title: TEN-RPT-02 Overloading Situation Details For Tender Assessment Report Generation Date: 08/05/2018 Report Generation Date: 08/05/2018 Department: THB Staff: CE 02/2018 (TEST) Agreement no.: All Tender: THB Non-Listed Consultant 1 Agreement Title: CE 02/2018 (TEST) title Tender closing Date: 01/03/2018 Anticipated Commencement Date: 20/03/2018 Anticipated Completion Date: 10/02/2019 Endorsement Status: Endorsed													
Name	Staff Category	Consultant Name	Agreement No.	Agreement Status	No. of Bidders	Paired Tender	Mar 2018	Apr 2018	May 2018	Jun 2018	Jul 2018	Aug 2018	Sep 2018
Fiona Tan	Partners/Directors	THB Non-Listed Consultant 1	CE 02/2018 (TEST)	This Tender	N/A	N/A	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Reeta Chan	Chief Professional	THB Non-Listed Consultant 1	CE 02/2018 (TEST)	This Tender	N/A	N/A	2.00	2.00	2.00	2.00	2.00	2.00	2.00
	Chief Professional	THB Non-Listed Consultant 2	CE 04/2018 (TD)	Implemented	N/A	N/A	1.50	1.50	1.50	1.50	1.50	1.50	1.50
David Wong	Chief Professional	THB Non-Listed Consultant 1	CE 02/2018 (TEST)	This Tender	N/A	N/A	2.00	2.00	2.00	2.00	2.00	2.00	2.00
	Chief Professional	THB Non-Listed Consultant 1	CE 01/2018 (CNPS)	Implemented	N/A	N/A	1.00	1.00	1.00	1.00	1.00	1.00	1.00
	Partners/Directors	THB Listed Consultant 1	CE 02/2018 (DM)	Implemented	N/A	N/A	2.00	2.00	2.00	2.00	2.00	2.00	2.00
	Other Technical Staff	THB Non-Listed Consultant 2	CE 04/2018 (TD)	Implemented	N/A	N/A	1.00	1.00	1.00	1.00	1.00	1.00	1.00
	Partners/Directors	THB Listed Consultant 1	CE 05/2018 (DM)	Implemented	N/A	N/A	2.00	2.00	2.00	2.00	2.00	2.00	2.00

RESTRICTED

Remarks: For consultancies with T&F Proposals closed on or after 23 March 2023, concurrent tender will not be taken into account in the overloading checking during the assessment of the Technical Proposals.

RESTRICTED

Report Title: TEN-RPT-02 Overloading Situation Details For Tender Assessment
Report Generation Date: 08/05/2018
Selection criteria:
Department: THB
Agreement no.: CE 02/2018 (TEST)
Staff: All
Tenderer: THB Non-Listed Consultant 1
Agreement Title: CE 02/2018 (TEST) title
Tender closing Date: 01/03/2018
Anticipated Commencement Date: 20/03/2018
Anticipated Completion Date: 10/02/2019
Endorsement Status: Endorsed

Name	Staff Category	Consultant Name	Agreement No.	Agreement Status	No. of Bidders	Paired Tender	Oct 2018	Nov 2018	Dec 2018	Jan 2019	Feb 2019	Weighting	Manpower Input Total (man-week)	Overloaded Manpower Input (man-week)
Fiona Tam	Partners/Directors	THB Non-Listed Consultant 1	CE 02/2018 (TEST)	This Tender	N/A	N/A	1.00	1.00	1.00	1.00	1.00	0.40	12.00	0.00
Reeta Chan	Chief Professional	THB Non-Listed Consultant 1	CE 02/2018 (TEST)	This Tender	N/A	N/A	2.00	2.00	2.00	2.00	2.00	0.40	24.00	0.00
	Chief Professional	THB Non-Listed Consultant 2	CE 04/2018 (T)	Implemented	N/A	N/A	1.50	1.50	1.50	1.50	1.50			
David Wong	Chief Professional	THB Non-Listed Consultant 1	CE 02/2018 (TEST)	This Tender	N/A	N/A	1.00	1.00	1.00	1.00	1.00	0.40	24.00	15.70
	Chief Professional	THB Non-Listed Consultant 1	CE 02/2018 (CNPS)	Implemented	N/A	N/A	1.00	1.00	1.00	1.00	1.00			
	Partners/Directors	THB Listed Consultant 1	CE 02/2018 (DM)	Implemented	N/A	N/A	1.00	1.00	1.00	1.00	1.00			
	Other Technical Staff	THB Non-Listed Consultant 2	CE 04/2018 (T)	Implemented	N/A	N/A	1.00	1.00	1.00	1.00	1.00			
	Partners/Directors	THB Listed Consultant 1	CE 05/2018 (DM)	Implemented	N/A	N/A	1.00	1.00	1.00	1.00	1.00			
Weighted Total:												24.00		6.28

Overall Overload %: 26.17%

Page 2 : Other ongoing agreement(s) : Other tender(s) submitted : Exceeded 4 00 man-week when checking with ongoing agreements. : Exceeded 4 00 man-week when checking with ongoing agreements and agreements under tendering process.

RESTRICTED

Page 2  Other ongoing agreement(s)  Other tender(s) submitted  : Exceeded 4 000 man-week when checking with ongoing agreements.  : Exceeded 4 000 man-week when checking with ongoing agreements.  : Exceeded 4 000 man-week when checking with ongoing agreements and agreements under tendering process.

RESTRICTED

Remarks: For consultancies with T&F Proposals closed on or after 23 March 2023, concurrent tender will not be taken into account in the overloading checking during the assessment of the Technical Proposals.

Operational Procedures for Checking of Listing Status During Consultant Selection Process

1. Scenario A - From Compiling the List of Consultants for Inviting EOI to Invitation for EOI Submission
 - (i) Prior to invitation for EOI, the procuring department shall check with the Secretary of EACSB for the most updated List. A copy of the invitation letter together with the list of consultants invited shall be sent to the Secretary of EACSB for record as usual.
 - (ii) The general rule is that only consultants eligible at the time of invitation should be invited for submitting EOI. For the avoidance of doubt, EOI submitted by sole/lead consultants other than consultants invited shall not be considered. A provision shall be included in the invitation documents stating that the lead consultant must ensure that the lead consultant itself and its sub-consultant(s) are eligible for bidding of consultancies at the time of submission of EOI. Failure to comply with this requirement will lead to disqualification of the consultant's EOI submission.
2. Scenario B - From Invitation for EOI Submissions to the Approval of Stage 1 Submission (Shortlisting Stage) by EACSB or DCSC
 - (i) During the EOI assessment stage, the Assessment Panel should keep track on any change on the eligibility for appointment of those lead and sub-consultants who have submitted the EOI, particularly prior to the Stage 1 submission (Shortlisting Stage) for approval by EACSB.
 - (ii) For the purpose of determining whether a consultant is eligible for shortlisting, the Assessment Panel shall check the listing status of the consultant at the time when EACSB Stage 1 approval is sought instead of at the time of EOI invitation or submission. In any case, a consultant who is under suspension from bidding shall not be shortlisted for submission of T&F proposals.
 - (iii) If a lead consultant who included in the proposed shortlist becomes ineligible for consideration because of subsequent change in listing status, then the next eligible consultant in the priority list of the same shortlisting exercise shall be submitted to EACSB for approval in lieu.
 - (iv) If a lead consultant who submitted the EOI submission has teamed up with a sub-consultant who is no longer eligible for shortlisting after the closing date for EOI submission, the Assessment Panel may continue the assessment by referring the listing status as at the closing date for EOI submission.

3. Scenario C - From Invitation for T&F Proposals to Approval of Stage 2 Submission (Nomination Stage) by EACSB or DCSC

- (i) For consultancies adopting the one-stage selection process, i.e. without invitation for EOI, only consultants eligible at the time of invitation shall be invited to submit T&F Proposals. For the avoidance of doubt, T&F Proposals submitted by sole/lead consultant other than consultants invited to do so shall not be considered. After the invitation letter of T&F Proposal has been issued, the consultant list shall not be changed.
- (ii) Prior to invitation for T&F Proposals from the shortlisted consultants, the procuring department should check with the Secretary of EACSB for the most updated List to ensure the eligibility of the consultants on the shortlist. If necessary, subject to the approval of EACSB, other suitable consultants may also be shortlisted. A provision shall be included in the invitation documents stating that the lead consultant must ensure that the lead consultant itself and its sub-consultant(s) are eligible for bidding of consultancies at the time of submission of T&F Proposals. Failure to comply with this requirement will lead to disqualification of the consultant's T&F Proposals. The invitation letter shall be copied to Secretary of EACSB for record as usual.
- (iii) The procuring department should keep track of any change in the listing status of firms that occurs during the invitation period, in particular prior to making the Stage 2 submission (Nomination Stage) for approval by EACSB.
- (iv) If a lead consultant has been suspended from bidding or removed from the List after the invitation for T&F Proposals and on or before closing date of submission of T&F Proposals, the procuring department may, after considering the tender competition and other relevant factors, continue the selection exercise concerned without replacement of the suspended shortlisted consultant, or cancel the selection exercise concerned and conduct another one afresh. Regarding a bid with sub-consultant suspended from bidding or removed from the list, the lead consultant has the right to team up with another sub-consultant as stipulated in the standard invitation letter of T&F Proposals subject to changes in circumstances stipulated in EACSB Handbook.
- (v) For a consultant who is downgraded due to failure to meet the ~~minimum~~ admission criteria of the original listed Group status or is suspended from bidding or removed from the List after closing date of submission of T&F Proposal or is found having serious default or non-performance (such as those mentioned in paragraph 22 of Annex I of DEVB TC(W) No. 3/2016), though not under suspension from bidding at the moment,

the Assessment Panel shall carefully consider whether the T&F Proposal of such consultant should be further processed. If the Assessment Panel decides not to further process the bid of such consultant, they shall seek endorsement from EACSB on such decision before continuing with the consultant selection exercise.

- (vi) If a lead consultant who submitted the T&F Proposal has teamed up with a sub-consultant who is no longer eligible for award of the consultancy after the closing date for submission of T&F Proposal, the Assessment Panel may continue the assessment by referring the listing status as at the closing date for submission of T&F Proposal. The lead consultant concerned may still be eligible for award of the agreement.

4. Scenario D - From the Approval of Stage 2 Submission (Nomination Stage) by EACSB or DCSC to Final Execution of the Agreement

- (i) Prior to the award of the consultancy, the procuring department shall check the nominated lead consultant and sub-consultant(s) with respect to the sub-paragraphs (ii) and (iii) below.
- (ii) If the nominated lead consultant has poor performance or has been suspended or removed from the List, the procuring department should according to the principle of section (B)(4)(i) in Appendix B to DEVB TC(W) No. 2/2016 critically consider whether the nominated lead consultant is still technically capable or appropriate for entering into the agreement with Government. If necessary, subject to the approval of EACSB, other suitable consultant shall be nominated.
- (iii) Regarding a bid with sub-consultant suspended from bidding or removed from the List, the bid should still be eligible for recommendation for award of the agreement. The procuring department should closely monitor the performance of the sub-consultant and take appropriate follow up actions under the provisions of the agreement.

Amendments to Special Conditions of Employment Clause
Conflict of Interest and Debarring and the Sample Declaration Form

[Remarks: For agreements adopting NEC PSC, please refer to the latest library of Standard Additional Conditions of Contract published on DEVB's website:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/practice_notes_nec_professional_services_contract/index.html]

1. Sub-Clause D of the Special Condition of Employment Clause in accordance with ETWB TC(W) No. 18/2005 subsumed in EACSB Handbook shall be replaced by sub-clause below.

SCE()

Conflict of Interest and Debarring

(D) The Consultants shall render their advice or recommendations pursuant to this Agreement to the Employer on an impartial basis without giving favour to any particular product, services or equipment in which the Consultants have a commercial interest or to any third party with whom the Consultants have a commercial interest, including but not limited to those who engaged the Consultants in consulting services related to private works. The Consultants shall notify the Employer immediately and in writing and keep the Employer notified of any actual, apparent, potential or perceived conflict they or their associated companies, associates or associated persons or any of their sub-consultants may have in, or any association or connection they or the aforesaid persons may have with, any of the services, products or equipment proposed or recommended by the Consultants under this Agreement or any of third party with whom the Consultants have a commercial interest. The Consultants shall obtain from each and every one of their directors, employee, agents and sub-consultants who are involved in this Agreements a binding undertaking to observe this sub-clause.

2. Sub-Clause (c) of the Sample Declaration Form in accordance with ETWB TC(W) No. 18/2005 subsumed in EACSB Handbook shall be replaced by sub-clause below.

(c) we are under an obligation to render advice or recommendations pursuant to this Agreement to the Employer on an impartial basis without giving favour to any particular product, services or equipment in which we have a commercial interest or to any third party with whom we have a

Appendix 4.1

commercial interest, including but not limited to those who engaged us in consulting services related to private works. We also have an obligation to notify the Employer immediately and in writing and keep the Employer notified of any actual, apparent, potential or perceived conflict we or our associated companies, associates or associated persons or any of our sub-consultants may have in, or any association or connection we or the aforesaid persons may have with, any of the services, products or equipment proposed or recommended by us under this Agreement or any of third party with whom we have a commercial interest. Each and every one of our directors, employee, agents and sub-consultants who are involved in this Agreement have given a binding undertaking to observe the aforesaid.

Guidelines on Assessment of Consultants' Professional Conduct

The professional conduct of consultants is critical to the quality of the services in delivering projects and safeguarding the interest of the Government. In most of the cases, consultants can uphold the integrity and act in a professional manner in the course of their services. However, it cannot be precluded that some consultants may perform unsatisfactorily in some occasions. As such, the Reporting Officer is required to assess the consultant's professional conduct in Section F of Part I of the Performance Report. To enhance consistency in assessment, some guidelines are provided as follows:

- (a) Unsatisfactory professional conduct is a serious assessment towards a consultant. Therefore such assessment must be carefully considered and substantially justified.
- (b) Unsatisfactory professional conduct will render the overall performance of the consultant "Unacceptable".
- (c) Notwithstanding the assessment mentioned in item (b) above, where the circumstance warrants, the procuring department may also consider taking regulating action(s), including suspension of the consultant from bidding for further consultancies, in accordance with DEVB TC(W) No. 3/2016 and the Guidelines promulgated under DEVB TC(W) No. 5/2018.
- (d) In assessing whether a consultant has unsatisfactory professional conduct, the procuring department shall consider the following:
 - has the consultant failed to declare any actual, apparent, potential or perceived conflict of interest in a timely manner?
 - has the consultant undertaken any services involving conflict of interest without prior written approval?
 - has the consultant used/disclosed any information/data obtained/produced under the Agreement to persons/parties not specifically allowed without prior written consent?
 - has any misconduct or suspected misconduct of the consultant been identified?

Any concern on the professional conduct of the consultant should be brought to the attention of the consultant's head office. Warnings in writing should be given to the consultant and copied to its head office for attention. If the procuring department considers that the situation amounts to a serious non-performance undermining the quality of services provided and/or interest of the Government, the item should be rated unsatisfactory.