| Clause | | Remarks / Guidelines |
| --- | --- | --- |
| SCT 5 Contractors' Joint Venture | | |
| (1) | Tenders from an incorporated joint venture or an unincorporated joint venture will not be considered unless the incorporated joint venture or the unincorporated joint venture itself is a prequalified tenderer. | DEVB Memo ref. (02VVW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017 and DEVB(W) 510/83/05 dated 16.9.2020.  This version of SCT5 should be used for prequalified tendering. |
| (2) | Where the tenderer is an unincorporated joint venture it shall, subject to General Conditions of Tender Clause 25, submit to the *Project Manager* designate a Letter of Undertaking in the form set out in Appendix# [*insert appropriate reference*] to these Special Conditions of Tender duly executed by all the participants of the unincorporated joint venture. Failure to comply with this sub-clause by an unincorporated joint venture shall render its tender invalid. | The percentages of financial participation of each participant as submitted in the prequalification application or, if any revision is proposed, the latest of the percentages of financial participation as approved by the *Client* shall be used for technical assessment. Project officers are reminded of this requirement in preparing the Marking Scheme for tender evaluation. |
| (3) | Where the tenderer is an incorporated joint venture it shall, subject to General Conditions of Tender Clause 25, submit to the *Project Manager* designate a Letter of Undertaking in the form set out in Appendix## [*insert appropriate reference*] to these Special Conditions of Tender duly executed by all the shareholders of the incorporated joint venture. Failure to comply with this sub-clause by an incorporated joint venture tenderer shall render its tender invalid. | # The form in Appendix A in DEVB Memo ref. (02VVW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017 shall be used  ## The form in Appendix B in DEVB Memo ref. (02VVW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017 shall be used |
| (4) | No tenderer is permitted to submit more than one tender for each contract. For the purpose of this Clause, a tenderer who submits a tender on its own behalf and as a participant or shareholder of a joint venture or as a participant or shareholder of more than one joint venture in response to a tender exercise shall be regarded as having submitted more than one tender. Tenders submitted from a tenderer on its own behalf who is found to be in breach of this sub-clause or from a joint venture or joint ventures in which any participant or shareholder is found to be in breach of this sub-clause shall not be considered.  For the purpose of this sub-clause:-  (i) A holding company and its subsidiaries are considered as one and the same tenderer. The existence of a holding-subsidiary relationship shall be determined as at the date set for the close of tender, or if this has been extended, the extended date, and in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622); and  (ii) An entity (including but not limited to sole proprietorship, partnership and limited company) and its related parties as defined in sub-clause (2A) of GCT 29 are considered as one and the same tenderer.  For the avoidance of doubt, if two or more shareholders or participants in the same joint venture tenderer have a holding-subsidiary relationship or they are related, they shall not be regarded as having submitted more than one tender. |  |
|  |  |  |