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**WBTC No. 23/2000 -
Computer Facilities in Consultancy Agreements;**

**WBTC No. 17/2001 -
Electronic Dissemination of Invitation Documents for Consultancies;**

**WBTC No. 31/2001 -
Electronic Submission of Consultancy Proposals on Removable Media;**

**ETWB TC(W) No. 26/2003 -
Post-completion Review on Major Consultancy Agreements
and Major Works Contracts under Public Works Programme;**

**ETWB TC(W) No. 30/2004 -
Consultancy Agreements – Retention of Documents and Inspection;**

**ETWB TC(W) No. 34/2004 -
Retention of Money Payable to Non-resident Consultants
for Settlement of Profits Tax in Consultancy Agreements; and**

**ETWB TC(W) No. 3/2005 -
Novation of Consultancy Agreements**

Subsumption under AACSB and EACSB Handbooks

_____ We enclose the summary of minor updates for subsumption of the subject technical circulars under AACSB and EACSB Handbooks for your information please.

2. Part of ETWB TC(W) No. 42/2002 “Feedback and Debriefing to Unsuccessful Bidders for Consultancy Agreements and Works Contracts” related to consultant selection exercises have also been subsumed under AACSB and EACSB Handbooks.

3. This memo takes effect on AACSB/EACSB consultancy agreements with Technical and Fee Proposals to be invited on or after 11 February 2019.
4. Secretaries of AACSB and EACSB are requested to update the AACSB and EACSB Handbooks accordingly.
5. Please bring this memo to the attention of all project officers who are responsible for management of consultancy agreements.
6. If you have any enquiry on the subject issue, please contact our Mr. Benjamin K. H. CHAN (Tel: 3509 8381 or email: benjaminkhchan@devb.gov.hk).

(Hortensia CHAN)
for Secretary for Development

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Review of Technical Circulars (Works) (TCWs) in relation to Consultancy Services
Summary of Minor Updates and Subsumption of Existing TCWs into AACSB/EACSB Handbook(s)

Index	TCW No.	TCW Title	TCW Updates Required	Recommendation / Remarks	Reason for TCW Update	Relevant Section of Original TCW to be Updated (Key updates highlighted in red in below column)	Relevant Section of AACSB/EACSB Handbook to be Updated for Subsumption of TCW
1	23/2000	Computer Facilities in Consultancy Agreements	Y	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	(i) Procurement of Agreement Computing Services (ACS) via consultancy agreements is not common and other practical ways to procure relevant computing services, e.g. through OGCIO standing order agreement, are available. Therefore, procurement of ACS via consultancy agreements is no longer required. (ii) General computer items covered by lump sum in consultancy agreements should be updated.	Paragraph 18 to be amended as follow:- “Except to the extent otherwise provided for in consultancy agreements, consultants should be responsible for the cost of all computing facilities required by them for fulfilling the obligations under consultancy agreements. These facilities shall include : (a) office automation facilities commonly used by secretarial, clerical, administrative, technical or professional staff for the office functions; (b) technical computing facilities used by professional and technical staff for computer-aided drafting, computer-aided design and geographical information systems, or other professional systems (such as, but not limited to, Electronic Document Management System, Building Information Modelling, Project Management System) as the case may be; and (c) IT training for staff employed by consultants.”	AACSB Handbook Update: (i) Section 5.9 (a)(iv); (ii) Appendix 5.2; (iii) Appendix 9 Clause 20.1 (iv) Appendix 10 Clause 4 (A)(iv); and (v) Appendix 34 Annex 3 Attachment XIII Part II item 2. EACSB Handbook Update: (i) Section 4.12.; (ii) Appendix 4.3 amended and new Annex D to Appendix 4.3; and (iii) Non-staff charges items including computer facility removed in Appendix 3.13 Item D2.
2	17/2001	Electronic Dissemination of Invitation Documents for Consultancies	Y	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	(i) Update latest compatible file formats for electronic dissemination;	Paragraph 9 of Annex 1:- Amend table under paragraph 9 as follows: (i) Replace “Adobe Acrobat” by “Portable Documents Format (PDF)”; (ii) Delete “Rick Text Format”; (iii) Replace “Word 97” by “Word”; (iv) Replace “Excel 97” by “Excel”; (v) Add “Building Information Modeling (BIM)”; (vi) Replace editable file type of drawings to “Procurement Department to define and insert”; (vii) Add the following paragraph under the table: - “The data formats and associated versions of documents/files to be adopted in the EIP’s should adhere to the latest OGCIO Interoperability Framework which	AACSB Handbook Update: (i) Annex E of Appendix 8.3. EACSB Handbook Update: (i) Section 4.18; (ii) New Appendix to Section 4.18

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						can be downloaded from the OGCIO website: https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html	
					(ii) Add DVD-ROM as a mean for dispatch of documents; and	Paragraphs 10, 12and 16(b) of Annex 1:- Add “/DVD-ROM” after “CD-ROM” and add “/DVD” after “CD”.	
					(iii) Rename ITSD to OGCIO.	Paragraphs 13(b) and 14 of Annex 1:- Replace “ITSD” by “OGCIO”.	
					(iv) Add reference for recognized digital signature certificate	Add new paragraph 15A as follows: “The list of recognized certificates is available at OGCIO’s website: www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs ”	
3	31/2001	Electronic Submission of Consultancy Proposals on Removable Media	Y	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	(i) Update latest compatible file formats for electronic submission;	Paragraph 8(a) of Appendix 1:- Amend table under paragraph 8(a) as follows: (i) Replace “Adobe Acrobat” by “Portable Documents Format (PDF)”; (ii) Delete “Rick Text Format”; (iii) Replace “Word 97” by “Word”; (iv) Replace “Excel 97” by “Excel”; (v) Add “Building Information Modeling (BIM)”; (vi) Replace editable file type of drawings to “(Procurement Department to define and insert)” (vii) Add the following paragraph under the table: - “The data formats and associated versions of documents/files to be adopted in the EPP should adhere to the latest OGCIO Interoperability Framework which can be downloaded from the OGCIO website: https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html	AACSB Handbook Update (i) Annex F of Appendix 8.3. EACSB Handbook Update: (i) Section 4.19; (ii) New Appendix to Section 4.19

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					(ii) Add DVD-ROM as a mean for submission of documents;	<p>(i) Paragraph 18 of main text; paragraphs 2 to 6 of Appendix 1:- Add “/DVD-ROM” after “CD-ROM” and add “/DVD” after “CD”.</p> <p>(ii) Paragraph 2 of Appendix 1:- First sentence is replaced by “EPP shall be submitted on CD-ROM media complying with ISO 9660:1988 or DVD-ROM media to ISO 13346:1995 standards.”</p>	
					(iii) Delete the requirement for EACSB to release the ORIGINAL set of EPP on technical proposal or EOI to the Managing Department (as the ORIGINAL set of the document is to be submitted to the Managing Department direct in common practice).	<p>Paragraph 16 of main text:- Delete first sentence: “The AACSB and EACSB will release the ORIGINAL set of EPP on technical proposal or EOI to the Managing Department for evaluation.”</p>	
					(iv) Add reference for recognized digital signature certificate and organizational e-cert	<p>Add new paragraph 7A in Appendix 1 as follows: “The list of recognized certificates is available at OGCIO’s website: www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs”</p>	
					(v) README file of EPP submission change to doc format	Amend README.rtf to README.doc in paragraphs 2 and 13 of Appendix 1, and replace “Rich Text Format” to “Word Format” in sentence 3 of paragraph 2 in Appendix 1.	
4	42/2002	Feedback and Debriefing to Unsuccessful Bidders for	N	- Core parts of TCW have already been subsumed in AACSB and EACSB Handbooks.	N/A	N/A	N/A

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		Consultancy Agreements & Works Contracts		- Remove TCW from active list after clearance of relevant implication on administration of works contracts.			
5	26/2003	Post-completion Review on Major Consultancy Agreements and Major Works Contracts under Public Works Programme	N	- Core parts of TCW have already been subsumed in EACSB Handbook. - Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks.	N/A	N/A	AACSB Handbook Update (i) Section 11.5
6	30/2004	Consultancy Agreements - Retention of Documents and Inspection	N	- Core parts of TCW have already been subsumed in AACSB and EACSB Handbooks. - Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks.	N/A	N/A	N/A
7	34/2004	Retention of Money Payable to Non-resident Consultants for Settlement of Profits Tax in Consultancy Agreements	Y	- Core parts of TCW have already been subsumed in EACSB Handbook. - Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	Update the text in accordance with the latest tier of Profit Tax.	(i) Item (3) of Appendix A is replaced as follow: (3) Calculation of the amount to be withheld for tax payment The amount of tax withheld should be calculated on the gross fee payable (exclusive of any reimbursement of expenses, if any). Please refer to the website of the Inland Revenue Department (www.ird.gov.hk) for the details of latest profit tax rates. (ii) The first sentence of the first paragraph of Appendix B is replaced as follow:	AACSB Handbook Update: (i) Section 5.17 (ii) Annex K of Appendix 5.1 (iii) SCE 18 in Appendix 29 (iv) Annex 3 to Appendix 34 EACSB Handbook Update: (i) Appendix 4.15

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						<p>“Please note that where the Consultants are non-resident corporation or, where the Consultants are unincorporated joint venture or partnership or sole proprietorship, any one of the participants or partners or the sole proprietor is a non-resident, the Government shall withhold a percentage equivalent to the prevailing Hong Kong Special Administrative Region (hereinafter referred to as Hong Kong) profits tax rate applicable to unincorporated and incorporated business at the time the services are rendered (For the details of the current profits tax rates, please refer to the website of the Inland Revenue Department www.ird.gov.hk) of any fee payable to the Consultants, whether by way of lump sum, instalments or discounted payments, but exclusive of any reimbursement of expenses, if any, in respect of the Services performed/provided in Hong Kong for the settlement of Hong Kong profits tax chargeable on the fee. ...”</p>	
8	3/2005	Novation of Consultancy Agreement	Yes	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with general update).	Revise signature format for execution of agreement in accordance with the latest Company Ordinance	Revise signature formats of Novation Agreement in Appendices A, B and C .	<p>AACSB Handbook update:</p> <p>(i) Revise Section 9.5</p> <p>(ii) New appendix 21.3</p> <p>EACSB Handbook update:</p> <p>(i) Revise Section 9.5</p> <p>(ii) New appendix to Section 9.5</p>



Ref. : 1/2/5

Group : 6, 17

18 December 2001

Works Bureau Technical Circular No. 31/2001

Electronic Submission of Consultancy Proposals on Removable Media

Scope

1. This circular promulgates the procedures for the electronic submission of Expressions of Interest, and Technical and Fee Proposals for consultancies under the purview of the Architectural and Associated Consultants Selection Board (AACSB), and Engineering and Associated Consultants Selection Board (EACSB).
2. This circular does NOT apply to consultancy services procured in accordance with Chapter II of the Stores and Procurement Regulations.

Effective Date

3. This circular shall take effect on 28 December 2001.

Effects on Existing Circulars

4. This circular has no effect on other circulars.

Related Circulars

5. This circular should be read in conjunction with-
 - (a) Works Bureau Technical Circular no. 17/2001 on "Electronic Dissemination of Invitation Documents for Consultancies"
 - (b) the Handbook on Selection, Appointment and Administration of Architectural and Associated Consultants published by the AACSB, ("AACSB Handbook"); and

- (c) the Handbook on Selection, Appointment and Administration of Engineering and Associated Consultants published by the EACSB, ("EACSB Handbook").
- 6. If there are discrepancies between the provisions of this circular and those of the AACSB and EACSB Handbooks, the former should prevail.

Definitions

- 7. In this circular, unless the context otherwise requires-
 - (a) "Consultant" means a consultant included in the longlist for EOI or the shortlist for T&F.
 - (b) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.
 - (c) "EOI" means the Expression of Interest.
 - (d) "Electronic Invitation Package" (or "EIP") means a collection of electronic files containing
 - (i) the Invitation Documents issued for an Invitation; or
 - (ii) the Invitation Addendum.
 - (e) "Electronic Proposal Package" (or "EPP") means a collection of electronic files containing the EOI or T&F submitted for an Invitation.
 - (f) "Invitation" means an invitation for-
 - (i) EOIs issued in accordance with the EACSB Handbook; or
 - (ii) T&F issued in accordance with the AACSB or EACSB Handbook.
 - (g) "Invitation Addendum" means a set of documents and its attachments issued before the submission closing date and time to amend the invitation documents.
 - (h) "Invitation Documents" means the documents issued for inviting submission of EOI or T&F, including
 - (i) the invitation to submit EOI or T&F and other documents issued together with it; and
 - (iii) (ii) Invitation Addenda.
 - (i) "Managing Department" means the department responsible for managing a consultancy under the purview of the AACSB or EACSB.

- (j) "Organisational e-Cert" means a digital certificate issued under the name of an organisation by a recognised certification authority as defined under section 2 of the Electronic Transactions Ordinance (Cap. 553).
- (k) "T&F" means the technical proposal and fee proposal.

Background

8. As outlined in WBTC no. 17/2001, the e-procurement of consultancy services is implemented in three phases as agreed by the Working Group on E-Procurement of Consultancy Services.
9. The first phase which is the electronic dissemination of invitation document was implemented on 17 September 2001 through the promulgation of the WBTC no. 17/2001.
10. The second phase which is the electronic submission of EOI's and T&F's on removable media is covered in this circular. The procedures for the final phase, electronic submission through the Internet, will be promulgated under separate circulars.

Policy

Invitation for EOI or T&F

11. All proposals, whether in the form of EPP or hard copy format, shall be checked and assessed on an equal basis. The Managing Department shall include the following paragraph in the invitation letter for EOI or T&F:-

"You may make your submission in either electronic format or hard copy format. If part of the submission is made in both electronic and hard copy formats, the electronic format shall prevail over the corresponding hard copy format. If you elect to make your submission in electronic format, the documents for your proposal shall be prepared and submitted in accordance with Annex [&]¹- Requirements for Submission of Proposal in Electronic Format. All proposals, whether submitted in electronic format or in hard copy format, will be evaluated on an equal basis."

¹ Insert appropriate Annex number

⁴ Either AutoCAD or Microstation may be deleted if the receiving department cannot support the drawing file format.

12. The "Requirements for Submission of Proposal in Electronic Format" in Appendix 1 shall be attached to the invitation letter.

Preparation and Submission of EOI or T&F

13. Consultants who elect to submit their proposal in electronic format shall prepare the EPP in accordance with the "Requirements for Submission of Proposal in Electronic Format" in Appendix 1.
14. All electronic files contained in the EPP shall be Digitally Signed by the Consultant. Organisational e-Cert used for the purpose of applying Digital Signatures shall be issued under the name of the Consultant and shall be valid as at the submission closing date and time for the EOI or T&F.
15. Consultants shall package the EPP and submit the proposal in accordance with the instructions contained in the invitation letter.

Handling of EPP

16. The AACSB and EACSB will release the ORIGINAL set of EPP on technical proposal or EOI to the Managing Department for evaluation. The AACSB and EACSB will release the EPP on fee proposal to the Managing Department for evaluation upon completion of the technical assessment.

Assessment of EOI and T&F

17. For documents for fee proposal, two sets of printouts shall be submitted together with the EPP. For documents for technical proposal or expression of interest, printouts may optionally be submitted together with the EPP. All printouts shall be clearly stamped "PRINTOUT" and duly signed by the Consultant. The signed printouts shall not be used for assessment unless there are problems in using the files in the EPP.
18. Managing Departments should preserve the contents of the EPP. No alteration to the electronic files of the submissions is allowed. To avoid any inadvertent changes or damage made to the EPP, the following measures shall be adopted in handling the EPP -
 - (a) CD-ROM drive which is NOT capable of writing or re-writing data on CD media shall always be used to read the EPP.
 - (b) Duplicate CD-ROM copies of the EPP shall be made and used for the purpose of proposal evaluation. The original EPP shall not be used as far as possible.
19. Managing Departments should check the validity of electronic files submitted in the EPP as follows-
 - (a) All files have been Digitally Signed by the Consultant.

- (b) The Digital Signatures are generated by an Organisational e-Cert of the Consultant.
 - (c) The Organisational e-Cert corresponding to the Digital Signatures is valid as at the submission closing date and time for the EOI or T&F.
20. If an electronic file in the EPP cannot be opened properly for viewing and printing by following the Consultant's instructions given in the EPP, that file shall be deemed as missing from the EPP unless a signed printout of that file has been included in the submission . The Consultant shall be notified in writing that -
- (a) an electronic file is deemed as missing from the EPP if the file cannot be opened properly by following the Consultant's instructions given in his EPP;
or
 - (b) a signed printout of an electronic file submitted by the Consultant will be used for evaluation notwithstanding that the electronic file cannot be opened properly by following the Consultant's instructions given in the EPP.

Preparation of Consultancy Agreement

- 21. The consultancy agreement shall be prepared using the printouts of the required documents contained in the EIP and/or EPP, and the signed printouts of the submission only if the corresponding electronic files cannot be opened properly, in accordance with the AACSB and EACSB handbook.
- 22. The retention and destruction of EPP's shall be handled in the same manner as proposals submitted in hard copy.

Enquiries

- 23. Enquiries on this circular may be made to Computer Services Unit of Works Bureau at fax no. 2905 1181 or e-mail address csu@wb.gov.hk.

(W.S. CHAN)
Deputy Secretary (Works Policy)

Annex [&]²

Requirements for Submission of Proposal in Electronic Format

The following requirements apply if the proposal is made in electronic format.

1. In this Appendix, unless the context otherwise requires-
 - (a) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.
 - (b) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.
 - (c) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.
 - (d) "Electronic Proposal Package" (or "EPP") means the collection of the electronic files containing the proposal submitted for this invitation.
 - (e) "Organisational e-Cert" means a digital certificate issued under the name of an organisation by a recognised certification authority as defined under section 2 of the Electronic Transactions Ordinance (Cap. 553).
2. EPP shall be submitted on CD-ROM media complying with ISO 9660 standard. All CD-ROMs should be clearly labelled or marked to indicate the agreement number, the name of the consultant, and the disk number if more than one CD-ROM is submitted. Each CD-ROM shall have a "README.rtf" file in the root directory prepared in Rich Text Format and Digitally Signed. This file shall contain at least the following information:
 - (a) general guidance on the use of the electronic files in the EPP (e.g. the file naming convention, directory structure of the CD-ROM, software name and version for viewing the file);
 - (b) a list of all documents submitted in the EPP with the following information-
 - (i) brief description of the contents of the document; and
 - (ii) disk number (if the submission contains more than one CD-ROM) and filename with full path information for the Editable File and/or the Image File;
 - (c) information on the proper setting for viewing, editing, and printing the electronic files, including, without limitations-

- (i) the printer to be used for printing the files;
 - (ii) the paper sizes;
 - (iii) requirements for special fonts; and
 - (iv) any special printing instructions;
- (d) detailed instructions for viewing other type of electronic information or visualisation not covered in paragraph 8 of this Annex.
3. EPP shall be submitted in duplicate. The original and duplicate set of EPP shall be clearly stamped "ORIGINAL" and "DUPLICATE" respectively on the CD-ROM labels.
 4. The write once type CD media shall be used for the preparation of EPP. For the avoidance of doubt, re-writable CD media shall not be used. The CD-ROM shall be logically closed such that no subsequent change can be made to the EPP.
 5. CD-ROM shall be properly packed and protected to avoid physical damage during the submission process.
 6. If the invitation requires the submission of fee proposal and technical proposal, EPP shall be split into two parts, which shall be stored and submitted in separate CD-ROMs. One set of CD-ROMs, clearly marked "Fee Proposal", shall contain documents as specified in the Guidance for the Preparation of Fee Proposal and shall be submitted in the "Fee Proposal" envelope. The other set of CD-ROMs, clearly marked "Technical Proposal", shall contain the documents as specified in the Guidance for the Preparation of Technical Proposal and shall be submitted in the "Technical Proposal" envelope.
 7. All electronic files in the EPP shall be Digitally Signed. Organisational e-Cert issued under the name of the Consultant shall be used for the purpose of applying digital signatures. The Organisational e-Cert corresponding to the Digital Signatures must be valid as at the submission closing date and time for the expression of interest or the technical proposal and fee proposal.
 8. (a) The following data formats shall be used for preparing documents in electronic form:-

<i>Type of Document</i>	<i>Editable File</i>	<i>Image File</i>
Text documents	Rich Text Format; or Word 97	Adobe Acrobat
Schedules or documents in tabular form	Excel 97; Rich Text Format; or Word 97	Adobe Acrobat

Type of Document	Editable File	Image File
Drawings	Microstation; ⁴ AutoCAD; Document Exchange Format (DXF); or Initial Graphic Exchange Standard (IGES)	Adobe Acrobat
Other types of documents, including scanned documents or scanned drawings	Not Applicable	TIFF or Adobe Acrobat

If more than one file format are specified, files need to be provided in one of the specified formats only.

- (b) Files prepared in the above format shall not be compressed using file compression programmes and shall not contain any computer instructions, including but not limited to,
- (i) computer viruses; and
 - (ii) macros, scripts and fields that depend on the execution environment and the execution of which will cause changes to the electronic file itself or the information system displaying the electronic record.
9. Electronic files may be submitted in Editable File format or in Image File format or in both type of formats. If both type of formats are submitted, the contents of Editable File and Image File of a document should be identical. If there are discrepancies, the Image File shall prevail.
10. As the conversion of drawing files to Adobe Acrobat format may slightly distort the scale of the drawing elements, line scales in both horizontal and vertical directions should be included in drawings files to enable correction factors to be made to compensate for distortion.
11. For documents for fee proposal, two sets of printouts shall be submitted together with the EPP. For documents for technical proposal or expression of interest, printouts may optionally be submitted together with the EPP. All printouts shall be clearly stamped “PRINTOUT” and duly signed by the Consultant. The signed printouts shall not be used for assessment unless there are problems in using the files in the EPP.
12. If other type of electronic information, for example, visualisation or modelling, not covered in paragraph 8 above is submitted with the proposal, software necessary for viewing the information shall be supplied with the submission. The software provided must be free of virus and can be run in mainstream PC under Windows operating environment. Necessary licence to use the software must be provided free of charge to the Government for viewing the information. Detailed instructions on setup, usage and removal of the software provided must be included in the submission.

13. Electronic file including the README.rtf of the EPP submission shall be deemed as missing from the EPP if that electronic file cannot be opened properly or does not comply with paragraph 7 and/or paragraph 8(b), unless the hard copy of that file has been submitted in the submission.

Subsumed