



Development Bureau

The Government of the Hong Kong Special Administrative Region

Contractor Management Handbook

First Issue Date: March 2001
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REVISION SHEET

First Issue Date: March 2001

Amendment History (after Revision No. 21)

Revision No.	Revision Date	Amendments
22	November 2022	<ul style="list-style-type: none"> - Revision of Section 5 to incorporate a new requirement that a tender will not be considered or accepted if the tenderer concerned is under suspension from tendering due to misconduct, suspected misconduct, poor site safety record, serious incident or conviction of site safety offences at any point of time between close of tender and the tender award date (both dates inclusive). Similar revisions are made for tender exercise adopting prequalification - Revision of Section 7 and addition of Appendix 8 to incorporate the checking procedures on the status of contractors in relation to suspension - General updating of Sections 3, 4, 7, Appendix 1, Appendix 2A and Appendix 3C
23	March 2023	<ul style="list-style-type: none"> - Revision of standard proforma and guidance notes for the assessment of contractor's performance (Appendix 4A and Appendix 4B) in performance aspects related to landscaping works/ tree works, subcontracting and building information modelling - Deletion of "Class 1 – Guniting" under "Specialized Operations for Highway Structures" category of the Specialist List - General updating of Sections 2, 3, 4, 5 and 7, Appendix 1, Appendix 2A, Appendix 3A and Appendix 3C
24	August 2023	<ul style="list-style-type: none"> - General updating of Sections 4, 5 and 7, Appendix 1, Appendix 2A and Appendix 3C

for information. Upon the receipt of recommendations, reports and other relevant information from departments, Managing Department(s) should conduct a review on all recommendations and make a recommendation to DEVB on the follow-up action(s) required.

4.5.2 Subject to paragraphs 4.5.3, 4.5.5 and 4.5.6 below, the reports should normally be quarterly from the commencement of the Works until the issue of the Maintenance Certificate or the Defects Liability Certificate, or until completion of all Works Orders in the case of term contracts.

4.5.3 It is noted that there may be few activities taking place in the very early period of a contract. To address this situation, the Reporting Officer shall generally not be required to prepare a report on a contractor's performance for a reporting period in which the contract has commenced less than 3 weeks before the end of such a reporting period. The Reporting Officer should include this short period in the report on contractor's performance for the subsequent reporting period instead. Notwithstanding this, if the Reporting Officer considers that a report on a contractor's performance is necessary for such a period, e.g. due to occurrence of a serious incident as defined in [DEVB TC\(W\) No. 5/2023](#), the Reporting Officer shall prepare the report and provide reasons in the report to substantiate the need for reporting for such a short reporting period.

4.5.4 For reporting of contractors' performance during the maintenance or defects liability periods, "Attitude to claims" and a minimum of four out of the ten major aspects of performance shall be assessed and rated. It should be noted that the performance to be reported during such periods would mainly cover performance of outstanding works and repair or rectification of defects¹.

4.5.5 After the Maintenance Certificate or the Defects Liability Certificate has been issued, quarterly reports are no longer required. Instead, except for term contracts for which no further reports are required, a report on contractor's performance should be made upon issue of the final payment certificate (which will cover the resolution of claims).

4.5.6 If a contractor's overall performance is poor and close monitoring is desirable, additional six-weekly intervening reports between the normal reporting periods may be made by the Reporting Officer provided that the contractor shall be given written notice of not less

¹ In case when there are no outstanding works and repair/rectification of defects are completed, Reporting Department may evaluate the need for preparing a quarterly report on contractor's performance. Subject to agreement of the relevant Managing Department, Reporting Department may not be required to prepare a quarterly report within the maintenance or defects liability period. In such case, SEO(PS), DEVB should be informed accordingly.

5.2 Removal, Suspension, Downgrading or Demotion of Contractors

5.2.1 Letters notifying contractors of their removal, suspension, downgrading or demotion from the List and/or the Specialist List will be issued only by DEVB and be signed by the Deputy Secretary for Development (Works).

5.2.2 If the tenderer or, if the tenderer is a partnership or an unincorporated or incorporated joint venture, any participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture is under suspension from tendering for public works in a particular category or in all categories, his tender for that particular category or for all categories, as the case may be, will not be considered unless the suspension is lifted by the Works Department or DEVB by the date set for the close of tender, or if this has been extended, the extended date. If the tenderer or, if the tenderer is a partnership or an unincorporated or incorporated joint venture, any participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture is under voluntary suspension from tendering for public works in a particular category or in all categories, at the date of tender invitation but subsequently revokes the voluntary suspension without agreement in writing from either the Works Department or DEVB, his tender for that particular category or for all categories, as the case may be, will not be considered.

5.2.2A In addition to paragraph 5.2.2 above, if a tenderer or if the tenderer is a partnership or an unincorporated or incorporated joint venture, any participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture, is:

- (a) under suspension from tendering for public works in all categories pursuant to paragraphs 5.2.3(c)(i) or 5.2.3(c)(vi) below; or
- (b) under suspension from tendering for public works in a particular category arising from “poor site safety record in a category” specified in paragraph 5.2.3(d)(ii) or the occurrence of serious incident or conviction of site safety offences specified in [DEVB TC\(W\) No. 5/2023](#),

and if the aforesaid suspension is in force at any point of time between (i) the date set for the close of tender or if this has been extended, the extended date, and (ii) the date on which the contract is awarded (both dates inclusive), its tender will not be considered or accepted.

5.2.2B Where prequalification stage is involved in a tender exercise, if the applicant or prequalified contractor is under suspension from tendering in a particular category or in all

5.8.8 A conviction against each participant of the partnership or unincorporated joint venture or shareholder of the incorporated joint venture shall be counted as a conviction against a partnership or an unincorporated joint venture or incorporated joint venture with different participants for the partnership or unincorporated joint venture or different shareholders for the incorporated joint venture for which the conviction was made.

5.8.9 For a limited company which substituted a partnership or sole proprietor or a limited company which substituted another limited company as defined in Sub-section 6.5, the limited company shall disclose the name of the entity prior to the substitution, where such substitution takes place within the 12-month period prior to the tender closing date. Convictions of the limited company including convictions of the entity (which includes partnership or sole proprietorship or limited company) before substitution, which fall within the 12-month period prior to the tender closing date, shall be taken into account in the tender assessment.

5.8.10 Where the tenderer is a partnership or an unincorporated or incorporated joint venture, the provisions of paragraph 5.8.9 above shall apply to participants of the partnership or unincorporated joint venture or shareholders of the incorporated joint venture who is/are limited company/companies.

5.9 Contractors Convicted of Site Safety or Environmental Offences or Incurring Serious Incidents on a Construction Site

5.9.1 Please refer to [DEVB TC\(W\) No. 5/2023](#) for details.

5.10 Non-compliance with the Provisions for Employment of Technician Apprentices and Building & Civil Engineering Graduates

5.10.1 Please refer to ETWB TCW No. 12/2003 for details.

5.11 Non-compliance with the Provisions for Engagement of Sub-contractors Registered under Registered Specialist Trade Contractors Scheme

5.11.1 Please refer to Chapter 7 of the PAH, available in the website of CEDD, for details.

5.12 Failure to Obtain Quality Management System Certification as Required

5.12.1 Please refer to WBTC No. 13/2001 and ETWB TCW No. 13/2001A for details.

5.13 Withdrawal of Tenders within the Tender Validity Period

5.13.1 A contractor shall exercise reasonable care in preparing his tender. A contractor who engages in any of the following inappropriate conducts, some of which may involve breaches of contract, may find himself the subject of regulating action:

- (a) withdrawal of his tender within the tender validity period;
- (b) refusal to comply with the Conditions of Tender;
- (c) refusal to withdraw a tender qualification or post-tender qualification irrevocably and unconditionally unless such qualification is explicitly permitted in the Conditions of Tender; and
- (d) refusal to make good the shortfall in share capital, employed capital and working capital within the specified time required for the award of the tender.

5.13.2 Refusal may be by way of positive refusal or failure to respond to requests or enquiry from the Employer or his agent. Failure to respond in the specified manner or by the specified deadline may also be regarded as failure to respond. The inappropriate conducts listed in paragraph 5.13.1 above are regarded as withdrawals of tenders in a particular category within the tender validity period.

5.13.3 Upon becoming aware of the inappropriate conduct as described in paragraph 5.13.1 above, the procuring department shall seek legal advice from the Legal Advisory Division (Works) of DEVB on whether legal action is recommended.

5.13.4 The Government may take legal action against a contractor to recover damages where there has been a breach of an implied contract by the contractor. In any event, withdrawal of a tender by the contractor under any of the situations mentioned in paragraph 5.13.1 above and which gives rise to reasonable suspicions as to the capability or integrity of the contractor shall result in regulating action being taken against the contractor unless the contractor can offer an acceptable explanation for such conduct.

5.13.5 Where it is established that a contractor engages in conduct as described in paragraph 5.13.1 above and which gives rise to reasonable suspicions as to his capability or integrity, the procuring department shall notify the Chairman of the related MRC within one week enclosing copies of the relevant correspondence with a copy to DEVB (Attn: Principal Assistant Secretary (Works)4) advising him of the name of the defaulting contractor, the tender closing date, the contract number, the contract title, the predominant category of works and the type of conduct as described in paragraph 5.13.1 above.

5.13.6 Upon receipt of the said notification from the procuring department, the Chairman of the MRC shall take the following actions:

- (a) If the notification is the first one in a rolling 36-month period, the following actions should be taken.
 - (i) The MRC Chairman shall write on behalf of his Director to the contractor preferably within two weeks from the date of receipt of the notification from the procuring department, seeking an explanation from the contractor as to the reasons for the inappropriate conduct (using the standard letter at **Appendix 5B**).
 - (ii) If the MRC Chairman is satisfied with the contractor's explanation, the contractor shall be advised (using the standard letter at **Appendix 5C**) that the inappropriate conduct will be recorded but will not be counted for the purposes of taking regulating actions.
 - (iii) If the contractor has failed to respond or if the MRC Chairman is not satisfied with the contractor's explanation and considers that the inappropriate conduct could have been reasonably avoided, the contractor should be warned (using the standard letter at **Appendix 5D**) that should he engage in further inappropriate conduct as described in paragraph 5.13.1 above either in the next 12-month period or 36-month period, regulating actions will be taken in accordance with subparagraphs (b) or (c) below unless the contractor can offer an acceptable explanation for such conduct.
- (b) If the notification is the second one in respect of the same category of works in a rolling 12-month period, the following actions should be taken.
 - (i) The MRC Chairman shall follow the same procedures laid down in subparagraphs (a)(i) and (a)(ii) above.

- (ii) If the contractor has failed to respond or despite the contractor's explanation, the MRC Chairman is satisfied that the inappropriate conduct gives rise to reasonable suspicions as to the capability or integrity of the contractor, he should recommend to DEVB to remove the contractor from that particular category. DEVB will give a further opportunity to the contractor to present his case before determining whether to take regulating action against him as recommended by the MRC Chairman.
- (c) If the notification is the second one in respect of the same category of works in a rolling 36-month period, the following actions should be taken.
 - (i) The MRC Chairman should follow the same procedures laid down in subparagraphs (a)(i) and (a)(ii) above.
 - (ii) If the contractor has failed to respond or despite the contractor's explanation the MRC Chairman is satisfied that the inappropriate conduct gives rise to reasonable suspicions as to the capability or integrity of the contractor, the MRC Chairman should recommend to DEVB to suspend the contractor from tendering for public works contracts in that category for six months. DEVB will give a further opportunity to the contractor to present his case before deciding whether to take regulating action against him as recommended by the MRC Chairman.

5.13.7 If DEVB decides to take regulating action against a contractor in accordance with this Sub-section 5.13 and where the contractor is a joint venture, then each and every participant (in the case of an unincorporated joint venture) or shareholder (in the case of an incorporated joint venture) shall be subject to the same regulating action.

5.13.8 For the purpose of counting the number of tender withdrawal and taking regulating action, the date of withdrawal shall be taken as the tender closing date of the contract concerned. In the event that there is uncertainty as to which date is the date of withdrawal, the decision of the Secretary for Development in this connection is final.

5.14 Contractors Convicted of Contraventions of Section 27 of the Public Health and Municipal Services Ordinance (Cap. 132)

5.14.1 Please refer to ETWB TCW No. 22/2003 and 22/2003A for details.

of the existing contract(s) determined as aforesaid shall be added to the total outstanding value of new contracts in the relevant group / class and category of contracts awarded after the tender closing date in checking compliance with the contract limits for probationary contractors.

7.5.5 Where –

- (a) a probationary contractor has submitted tenders and attained the highest combined scores for more than one contract in the same category, class and group; and
- (b) if the award of these contracts are determined at the same time but the award of two or more of these contracts to that probationary contractor will exceed the limits on number and/or value of contracts in the relevant category, class and group stipulated in paragraph 2.5.1 or 3.5.1,

the Government shall be entitled to determine which contract(s) is/are to be awarded to that probationary contractor on the basis of a combination of tender awards of these contracts that would cost least to the Government. An example is provided in **Appendix 7**.

7.6 Checking Status of Contractors in Relation to Suspension

7.6.1 For the purpose of checking whether contractors are suspended from tendering for public works under paragraphs 5.2.2 and 5.2.2A, the department responsible for the tender exercise should observe the following procedures:

- (a) On the tender closing date for the contract being procured, all tenderers shall be checked on whether they are being suspended from tendering;
- (b) On the date the tender report is completed and signed for submission to the relevant tender board or authority (the “**tender report date**”), all conforming tenderers shall be re-checked on whether they are being suspended or have been suspended from tendering arising from any of the circumstances specified in paragraphs 5.2.3(c)(i), 5.2.3(c)(vi), 5.2.3(d)(ii) or occurrence of serious incident or conviction of site safety offences specified in [DEVB TC\(W\) No. 5/2023](#) at any point of time between the tender closing date and the tender report date (both dates inclusive);

Technical Circulars and subsequent revisions to be read in conjunction with this Handbook

Circular No.	Title
17/96	Supply of Bituminous Pavement Materials and Construction of Special Bituminous Surfacing [subsumed under Chapter 5 of PAH which is available at the website of CEDD]
13/2001 & 13/2001A	Quality Management System Certification of Consultants and Contractors for Public Works Administered by the Works Group of Departments
25/2001 and 25/2001A	Admission of EMSTF onto the List of Approved Suppliers of Materials and Specialist Contractors for Public Works under 25 Categories of E&M, Electronics and Building Services
50/2002	Contractors' Joint Ventures
12/2003	Employment of Technician Apprentices and Building & Civil Engineering Graduates by Contractors of Public Works Contracts
22/2003 & 22/2003A	Additional Measures to Improve Site Cleanliness and Control Mosquito Breeding on Construction Sites
19/2005	Environmental Management on Construction Sites (and Pay for Safety Performance Merit Scheme)
3/2007 & 3/2007A	Contractors' Performance Index System
6/2010	Trip Ticket System for Disposal of Construction & Demolition Materials
8/2010	Enhanced Specification for Site Cleanliness and Tidiness
7/2014	Guidance on Execution of Public Works Contracts as a Deed
4/2017	Employment of Skilled Workers in Public Works Contracts
6/2019	Implementation of Mandatory Construction Industry Collaborative Training Schemes in Public Works Contracts
1/2020	Score Card for Assessment of Site Safety Performance
4/2020	Tree Preservation
5/2020	Registration and Preservation of Old and Valuable Trees
6/2021	Security of Payment Provisions in Public Works Contracts
5/2023	Regulating Action against Contractors for Occurrence of a Serious Incident or Conviction for Site Safety or Environmental Offences

APPENDIX 2A Minimum financial, technical and management requirements for the List of Approved Contractors for Public Works

The suitability of a contractor for admission, confirmation and promotion to a category and group in the List is assessed mainly under six core elements, (namely experience, management, staff employment, safety, integrity and financial capability), as well as other specific technical requirements. A contractor on the List shall ensure his continuous compliance with the retention requirements. Subject to other provisions in the Handbook, the applicability of the criteria in this Appendix to admission, confirmation, promotion and retention are summarized in the table below.

	For admission, confirmation and promotion	For retention
Criterion 1 : Safety		
1.1 Qualified personnel	✓	✓
1.2 Performance in compliance with safety legislations	✓	✗ ¹
Criterion 2: Experience	✓	✗
Criterion 3: Management – Top Management		
3.1 Minimum number and qualifications	✓	✓
3.2 Continuous Capability Building	✗	✓
Criterion 4: Staff Employment – Technical Staff		
4.1 Minimum number and qualifications	✓	✓
4.2 Continuous Capability Building	✗	✓
Criterion 5: Financial Capability	✓	✓
Criterion 6: Integrity		
6.1 Integrity Management Policy	✓	✓
6.2 Integrity Training	✗	✓
Other Criteria: Business Registration Certificate, Statutory Registration and ISO 9001 Certification	✓	✓

¹ The policy and procedure for imposition of regulating action against contractors on the List for occurrence of a serious incident or conviction for site safety offences are set out in [DEVB TC\(W\) No. 5/2023](#) and handled under that Technical Circular separately.

Remarks

1.2 Performance in compliance with safety legislations#

- The applicant shall not be convicted of 5 or more site safety offences counted by the date of commission and not by the date of conviction, each arising out of separate incidents in any 6-month period in the past 12 months counting from the submission of the application. For example, if an applicant submitted its application on 1 January 2021, the applicant shall not be convicted of 5 or more site safety offences in each of the rolling 6-month period below:

Rolling 6-month Period	1 Jan 20 to 30 Jun 20	1 Feb 20 to 31 Jul 20	1 Mar 20 to 31 Aug 20	1 Apr 20 to 30 Sep 20	1 May 20 to 31 Oct 20	1 Jun 20 to 30 Nov 20	1 Jul 20 to 31 Dec 20
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- A site safety offence means a conviction for any offence set out in the ordinances and their subsidiary legislations stipulated in paragraph 10(h) of DEVB TC(W) No. 5/2023 or subsequent updates. For overseas applicants who do not have site experience in the HKSAR, a site safety offence means a conviction for any offence set out in the relevant occupational health and safety acts, regulations and their subsidiary legislations in its place of incorporation or place of major business. The overseas applicants shall provide details of such site safety offence to DEVB and Managing Department(s) for assessment.
- The applicant shall declare his compliance with this assessment sub-criteria in the application form, and shall provide supporting documents upon request. In the event that an applicant's number of convictions exceeds the above limit, the applicant shall be regarded as having satisfied this requirement if the applicant already holds a certificate of compliance with ISO 45001 (or equivalent) and has completed a safety audit by external safety auditor recognised by DEVB to demonstrate its capability to deliver a relevant contract with satisfactory safety performance after the last conviction and within one year from its application.

Criterion 2: Company Experience#

- 2.1 Both relevant Government and non-Government contracts will be counted for assessing contract experience requirements for admission on probation (direct entry or by promotion) and confirmation. "Government contract" in this Appendix refers to "HKSAR Government public works contract". For the purpose of assessing contract experience requirements for confirmation and promotion, if the following conditions are satisfied, Managing Department may, but is not bound to, take a non-Government contract as if it were a Government contract:
- the majority of its works (i.e. more than 50% of work value) under that non-Government contract are construction works entrusted by the Government;
 - the provisions in that non-Government contract follow the requirements and standards of works in relevant category of Government works contracts; and
 - the procurement and contract administration of the party to whom the Government construction works are entrusted, follows the standard procedures of Government's public works contracts;
- provided that contractor could adduce evidence to the Managing Department that the above conditions (a) to (c) could be satisfied. To facilitate assessment, the Managing Department may seek confirmation on the authenticity of the proof provided by the contractor and seek further references on the requirements of the contract concerned and the contractor's technical and management capabilities from the relevant parties, including the bureau/department which has entrusted the works to other party.
- 2.2 Group A limit and Group B limit mean the Group Tender Limits for Group A and Group B respectively. Probationary limit of Group C means the total value of Group C contracts in any one category for which a probationary Group C contractor is eligible to be awarded. The applicable tender limits for Group A, Group B and Group C (Probationary) in this Appendix should be as follows:

Applicable to contracts for which tenders were invited	Group A	Group B	Group C (Probationary)
On or after 1 March 2021	\$150 million	\$400 million	\$1,500 million
Before 1 March 2021 but on or after 15 February 2017	\$100 million	\$300 million	\$700 million
before 15 February 2017	\$75 million	\$185 million	\$400 million

Rolling 6-month Period	1 Jan 20 to 30 Jun 20	1 Feb 20 to 31 Jul 20	1 Mar 20 to 31 Aug 20	1 Apr 20 to 30 Sep 20	1 May 20 to 31 Oct 20	1 Jun 20 to 30 Nov 20	1 Jul 20 to 31 Dec 20
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- A site safety offence means a conviction for any offence set out in the ordinances and their subsidiary legislations stipulated in paragraph 10(h) of DEVB TC(W) No. 5/2023 or subsequent updates. For overseas applicants who do not have site experience in the HKSAR, a site safety offence means a conviction for any offence set out in the relevant occupational health and safety acts, regulations and their subsidiary legislations in its place of incorporation or place of major business. The overseas applicants shall provide details of such site safety offence to the Development Bureau and Managing Department(s) for assessment.
- The applicant shall declare his compliance with this assessment sub-criteria in the application form, and shall provide supporting documents upon request. In the event that an applicant's no. of convictions exceeds the above limit, the applicant shall be regarded as having satisfied with this requirement if the applicant already holds a certificate of compliance with ISO 45001 (or equivalent) and has completed a safety audit by external safety auditor recognized by the Development Bureau to demonstrate its capability to deliver a relevant contract with satisfactory safety performance after the last conviction and within one year from its application.

V. Integrity

- The applicant shall maintain an integrity management policy covering at least the contents set out in the Sample Integrity Management Policy at **Annex 3 to Appendix 2A**.
- In respect of integrity training, please refer to the continuous capability building requirements in Items II and III above.

VI. Specific Technical Requirements

- The applicant shall possess or set up in Hong Kong a place of business as defined in Section 2 of the Business Registration Ordinance and submit a copy of his business registration certificate in his application for admission (direct entry or by promotion) and confirmation to the Specialist List. The contractor shall also maintain his business registration certification for retention.
 - Other specific technical requirements such as statutory registration and certification, plant and equipment, office / workshop facilities, etc. for each category are stipulated in the respective pages in this Appendix.
- (2) Unless otherwise specified, the revised admission, confirmation, promotion and retention requirements in this Appendix shall take effect from **1 March 2021**. When contractors submit applications for admission, confirmation or promotion based solely on the experience of contracts (or the related main contract for the case of which experience of subcontracts is allowed) for which tenders were invited before **1 March 2021**, the minimum contract value in the Contractor Management Handbook Revision B-15 shall be adopted for assessing such applications. For the avoidance of doubt, the respective applicable group limits to determine the minimum contract values referred to in the contract experience requirement for the relevant categories and groups are as follows: