

## SECTION 1 INTRODUCTION

### 1.1 D&B Projects

- 1.1.1 In Government conventional contracts, contractors submit tenders to carry out works that normally have been fully designed either by the Government's in-house staff or its consultants.
- 1.1.2 In design and build (D&B) contracts the Contractor is required to carry out the design to a predetermined extent in compliance with the Employer's Requirements, and to submit a tender (Contractor's Proposals) based on his own design.
- 1.1.3 The D&B approach gives an advantage in some situations that 'buildability' (i.e. contractors' expertise in construction methods) is introduced in the early stage of design, and that designer and contractor are on the same team.
- 1.1.4 The Administration is committed to expediting the implementation of capital works projects, and consideration should be given on ways to fast track the procurement process. In comparison with the conventional contract form, D&B contracts are capable of advancing works start dates and realising the benefits of projects early. Furthermore, the contractor could better utilise his resources in the design process and therefore, a D&B procurement mode could achieve benefits to both the employer and contractor.
- 1.1.5 Essentially, there are three prerequisites if a construction project is to be carried out successfully under D&B procedures. These are:-
- (i) Care is paid to the procedures for the selection of contractors to be invited to tender.
  - (ii) The intentions and the wishes of the client departments are clearly formulated before tenders are invited and are set out in

the Employer's Requirements which the Contractor's Proposals shall fulfil.

(iii) The tender selected best meets the expectations of client departments regarding cost and quality.

1.1.6 There are four particular aspects of D&B contracts in which the procedural approach differs significantly from the approach in Government conventional contracts. These are:-

(i) Drafting the Employer's Requirements.

(ii) Assessment of tenders.

(iii) Checking and approval of designs.

(iv) Contract supervision.

1.1.7 Outline of these procedures is given in Sections 3 & 4 and more detailed guidance is provided in the Appendices.

1.1.8 The Administrative Procedures should be read in conjunction with the General Conditions of Contract for Design and Build Contracts (1999 Edition).

1.1.9 The Agreement on Government Procurement of the World Trade Organization (WTO GPA) applies to D&B projects where the value is above a prescribed Special Drawing Right (SDR) value for construction services<sup>1</sup>. The equivalent HK\$ threshold values shall be adopted as advised from time to time by the Financial Services and the Treasury Bureau. For procurements governed by the WTO GPA, the requirements set out in WTO GPA, and the guidelines provided under the prevailing Technical Circulars (Works), hereafter denoted as TC(W), and any amendments thereto currently in force should be observed.

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<sup>1</sup> Design services are not covered by Hong Kong, China's commitments under the WTO GPA.

- 1.1.10 Works departments may prequalify tenderers who are financially and technically capable of undertaking the D&B contracts on a project by project basis with a view to reducing tender cost and / or shortening the duration of the procurement process as appropriate. The procedures for invitations to submit prequalification applications should be governed by the prevailing Stores and Procurement Regulations (SPR) supplemented by TC(W) and any amendments thereto issued from time to time.
- 1.1.11 For procurement covered by the WTO GPA, at least 40 days from the date of tender notification should be allowed for receipt of tenders and no less than 25 days from the date of publication of the invitation for applications to be prequalified to tender. Notwithstanding, the time for receipt of D&B tenders should be sufficient for contractors to develop their tenders. Normally, a minimum period of 70 days shall be allowed. For complex buildings and buildings of outstanding aesthetic requirements, the tendering period should be set at about 112 days (i.e. 16 weeks).