



SCOUT ASSOCIATION OF HONG KONG

Technical Note on Tendering and Management of Capital Works Projects

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Technical Note on Tendering and Management of Capital Works Projects

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ANNEX

- A Simplified Flow Charts illustrating Tendering and Management Procedures for Capital Works Projects
- 1 Guidance Notes on Association Property
- 2 Estate Branch Form EB006 – 工程需求及籌劃備忘
- 2 Estate Branch Form EB006A – 工程需求通知
- 3 Estate Branch Form EB001 – 發展及改善工程計劃撥款申請
- 4 Guidelines for Adopting Screening Criteria for Tender Evaluation
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- 9 Guidelines for Tender and Contract Negotiations
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- 11 Estate Branch Form EB003 – 工程視察紀錄表
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- 14 Sample Tender Notice
- 15 Sample Tender Report for Minor Works of cost not exceeding HK\$50,000.00
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Scout Association of Hong Kong –
Technical Note on Tendering and Management of Capital Works Projects

ABBREVIATION

CC's Council	Chief Commissioner's Council
CWTB	Capital Works Tender Board
DPSC	Development & Project Sub-committee
EC	Executive Committee
ESA	Equivalent Supreme Authority which is the Service Committee / Council of Scout Shop, Leadership Training Institute, Scout Group
FC	Finance Committee
GNFM	Guidance Notes on Finance Matters
HQTB	Headquarters Tender Board
PAAP	Property Acquisition Assessment Panel
PDAC	Properties Development Advisory Committee
SAHK	Scout Association of Hong Kong

1.1 Preamble

- 1.1.1 This Technical Note provides detailed guidelines on tendering and project management for capital works projects, including the associated consultancy services. Simplified Flow Charts illustrating Tendering and Management Procedures for Capital Works Projects are provided at **Annex A**.
- 1.1.2 The guidelines shall be observed by all procuring scout units (which could be SAHK or its Subsidiaries, Branch, Region, District and Scout Group) and shall apply to all projects no matter they are partially or wholly funded by own resources of the procuring scout units OR by outside bodies.
- 1.1.3 For projects funded by outside bodies, the regulations, tendering guidelines and procedures of the funding authority shall also be observed. This Technical Note shall not apply to capital works and related maintenance / upgrading works for accommodations / sites which are provided, funded and handled by Sponsors and most of the Scout Group headquarters are of this category. For adhoc minor repair involving direct replacement using similar materials without upgrading / modification, only 3.2.3, 3.2.10 and 3.4.2.2 in this Technical Note shall apply provided that the estimated cost of such repair shall not exceed HK\$5,000.00 and is funded by the procuring scout unit.
- 1.1.4 Proposed changes to the procedures contained in this Technical Note should be approved by the Chief Commissioner on the advice of HQTB of SAHK.

2.1 Need for Procurement of Capital Works Projects

2.1.1 The procuring scout unit shall first identify the need and justification for procurement of the project. In establishing the need, at least the following aspects shall be considered and documented –

- (a) situations giving rise to the need;
- (b) the scope and coverage of the project to meet the need;
- (c) constraints;
- (d) implications on lease / town planning aspects;
- (e) availability of options;
- (f) business plan (where applicable);
- (g) procurement options;
- (h) need for engaging consultants;
- (i) procurement programme;
- (j) cost estimate, including cash flow and recurrent consequences; and
- (k) any other necessary information.

Where business plan is required to demonstrate the financial viability of the need, the plan shall be vetted by FC of SAHK.

2.1.2 Specifically, for a project which –

- (a) would cast substantial impacts on / changes to the land lease or development type;
 - (b) would involve significant capital investments;
 - (c) would result in significant recurrent expenses;
 - (d) is for consultancy services costing HK\$0.75 million or more;
 - (e) is for redevelopment or major augmentation of existing facilities; or
 - (f) is for new development and / or infrastructure,
- a paper seeking the consent / policy support of SAHK via CC's Council and

EC of SAHK on the need for procurement of the project shall be prepared by the procuring scout unit. The paper shall be signed by the Budget Holder (see 2.3 below). Where the procuring scout unit is not a Branch, the paper shall first be endorsed by EC / ESA of the subject unit prior to submission to CC's Council and EC of SAHK. For project to be procured by a District or Scout Group, the subject paper shall also be endorsed by the concerned Regional Commissioner prior to the submission. Paper to CC's Council / EC of SAHK shall be submitted, copied to Estate Branch simultaneously, at least four weeks in advance of the meeting at which the project proposal is to be deliberated.

Project proposal related to (a), (e) and / or (f) above should first be vetted by PAAP who would refer its recommendations / advice to the Chief Commissioner for deciding if the project should be scrutinized by FC and / or put forward to CC's Council and EC of SAHK for consideration.

- 2.1.3 For capital works projects not falling within the ambits listed in 2.1.2 above, procuring scout units shall make use of the "Estate Branch Form EB006" at **Annex 2** for submission to Estate Branch for consideration by the Assistant Chief Commissioner (Estate) in respect of the needs for procurement of the projects. Where considered necessary, the Assistant Chief Commissioner (Estate) can refer the projects to CC's Council for views.

For project works and routine maintenance with cost not exceeding HK\$50,000.00, the procuring scout unit shall submit "Estate Branch Form EB006A" at **Annex 2** to Estate Branch for agreement prior to proceeding with tendering or obtaining quotations.

- 2.1.4 Notwithstanding, capital works projects of the following categories are exempted from submission on need for procurement –
- (a) project included in the annual capital works budget held by Estate Branch; and
 - (b) emergency repair approved by the Assistant Chief Commissioner (Estate) in accordance with 3.4.2.11 below.

2.1.5 The procuring scout unit shall not commence any procurement procedures nor incur any expenditures before the policy support and budget approval are granted.

2.2 Project fund and budget

2.2.1 Pertaining to the prevailing policy of SAHK, the procuring scout unit shall be responsible for, and therefore maintain, a recurrent budget to undertake the operation, maintenance and improvements for the completed project. Specific requirements for property developments are set out in the Guidance Notes on Association Property at **Annex 1**.

2.2.2 Funds for the procurement proposal can be sought from –

- outside funding authority;
- donors in SAHK;
- fund raising;
- budgets of the respective procuring scout units;
- specific budgets approved by SAHK; or
- the capital works budget* maintained by Estate Branch, subject to funds approved by EC of SAHK, for annual bidding by procuring scout units and “Estate Branch Form EB001” at **Annex 3** is relevant.

** inclusion of project proposals in this budget will be subject to the assessment of Capital Works Projects Assessment Panel comprising the Chairman of DPSC under Estate Branch, Commissioner(s) of Estate Branch, and other DPSC members as the Assistant Chief Commissioner (Estate) thinks fit*

2.2.3 Procuring scout units shall first consider seeking funds from outside bodies before applying for budgets from SAHK.

2.2.4 In working out the budget for a project, the projected cost inflation / deflation to incur during the planning and construction periods of the project shall be worked out to form part of the total project cost estimate. Procuring scout units shall not purposely split a project or contiguous projects into a number of individual smaller projects so as to avoid the control of GNFM and this Technical Note.

- 2.2.5 The budget estimate of a project, after its first inception, may undergo changes in the course of design development. The procuring scout unit shall in this regard keep its EC / ESA well informed of such changes. For projects within the ambits listed in 2.1.2 above, the procuring scout units and / or the concerned Budget Holders shall update EC of SAHK on the progress and budget estimates of the projects regularly, but not less than half-yearly.

2.3 Budget Holder and Project In-charge

- 2.3.1 The Budget Holder can be the Chief Commissioner, the Deputy Chief Commissioner of a wing, the Assistant Chief Commissioner of a Branch / Region, District Commissioner of a District or the Group Scout Leader of a Scout Group who is vested with the authority to expend in accordance with the budgets approved by EC / ESA of the relevant procuring scout unit.
- 2.3.2 Proposal once approved is owned by the Budget Holder who should manage and control the procurement. He should ensure that the procurement process strictly follows procedures in this Technical Note and that the project be completed in accordance with the approved budget and timeframe. He should also ensure that all works carried out shall be within the approved project scope.
- 2.3.3 Where considered appropriate, the Budget Holder can appoint a Project In-charge, who should be a commissioner of at least Grade V in rank and possess suitable knowledge and experience in the management and running of capital works projects, to handle the frontline tasks on his behalf. Nonetheless, the Budget Holder shall remain the person bearing the ultimate responsibility. Where the Budget Holder is the Chief Commissioner, the Project In-charge shall be the head of the procuring scout unit.

2.4 Consultants for Capital Works Project

- 2.4.1 Simple engineering and construction works (e.g. internal decoration works) shall be managed and run by in-house resources / volunteers of the procuring scout units. Only complex capital works projects and / or those

that require specialist input (e.g. feasibility study of major development, structural design) or involve statutory procedures (e.g. building plan submission) would normally warrant the engagement of consultants.

- 2.4.2 Before deciding to engage consultants, the procuring scout units shall thoroughly review the need by considering the scope of services to be required from consultants, justifications for such an engagement, fees to be incurred, etc. For instance, design and build mode of implementation would be a more cost-effective way for implementing some projects (e.g. landscape works, adventure facilities).
- 2.4.3 If consultancy services are demonstrated to be absolutely necessary and agreed by the authorities concerned, the procuring scout unit shall identify suitable firms for inclusion into the tenderer lists, by making reference to some established directories in the trades. It is important that the consultants selected for consideration should be of appropriate disciplines. For instance, there is no point to engage an Authorized Person (who basically is an architect for buildings) to look after greening works or to supervise marine works. Generally, consultancy services shall be procured through the two-envelope tendering system unless otherwise agreed by the Assistant Chief Commissioner (Estate).

2.5 Consultation Mechanism

- 2.5.1 Various committees are established in SAHK for tapping the expertise and advice of community leaders on various matters, with EC / ESA being the mandatory setup for each level of the hierarchy. It is desirable to seek the advice and views of these committees on procurement proposals which have significant implications.
- 2.5.2 For procurement of capital works projects and related consultancy services, the proposal and project requirements should be endorsed by a suitable committee (e.g. EC, ESA, campsite committee, property management committee or the like) of the procuring scout unit before submission to relevant authorities for approval. Where the Scout Group does not have such committees, the submission shall instead be first endorsed by relevant committees at the Region level. For procurement by a Scout Group, views of its Sponsor shall also be sought beforehand. For

projects proposed at premises under the management of Estate Branch, prior agreement of Estate Branch shall be obtained.

- 2.5.3 For property developments and / or property redevelopments selected by EC of SAHK, advice is to be sought from PDAC.

3.1 Procuring Entities

- 3.1.1 In addition to giving general guidance and technical advice on tendering procedures and contract administration matters in respect of works contracts, Estate Branch maintains a central performance report system for works contractors and consultants who have provided services to SAHK for reference of the procuring scout units. Notwithstanding that the procurement process is governed by Estate Branch, procuring scout units shall themselves conduct the procurements for capital works projects and related consultancy services.
- 3.1.2 For procurements of capital works projects and related consultancy services by Districts and Scout Groups, proposals requiring funds from the capital works budget of Estate Branch will need to be endorsed and submitted by relevant Regional Commissioners.

3.2 Tender Boards

- 3.2.1 **HQTB**, set up by the Chief Commissioner pursuant to this Technical Note, will consider, amongst others, tenders and related matters for capital works projects and related consultancy services with an estimated value exceeding HK\$10.0 million and advise the Chief Commissioner on the acceptance of tender recommendations as well as other tendering matters as required by the Chief Commissioner. The terms of reference and membership of HTQB shall be approved by EC of SAHK. An Assistant Chief Scout Executive will serve as the secretary of HQTB.
- 3.2.2 **CWTB** chaired by the Chairman of DPSC, with Commissioner(s) of Estate Branch, serving non-uniformed member(s) of DPSC and serving non-uniformed member(s) of the Association Headquarters Property Management Sub-committee under Estate Branch to be appointed by the Assistant Chief Commissioner (Estate) as Board members, and the Scout Executive (Estate) as the secretary, is also set up by the Chief Commissioner through this Technical Note to approve tenders and related tendering matters for capital works projects and related consultancy services of an estimated value of HK\$10.0 million or below.

3.2.3 As regards tenders for capital works projects and related consultancy services of an estimated value not exceeding HK\$0.5 million, the procuring scout unit is delegated with the authority by CWTB to set up its own tender board to approve the tender award and related tendering matters except single tender recommendations and those listed in 3.2.8 below. Such a tender board shall be chaired by the chairman / vice-chairman of EC / ESA, with the treasurer and at least two serving members of EC / ESA (at most one of them is uniformed member) of the procuring scout unit as Board members. For the avoidance of doubt, tenders for capital works and related consultancy services procured by (a) those Subsidiaries where the chairman of EC / ESA is also the Budget Holder; and (b) Branches shall be considered by CWTB, and tenders procured by Scout Groups shall be considered by the tender boards set up at the Region level. Also, if the capital works projects and related consultancy services are funded by the capital works budget of Estate Branch, the approval to tender recommendation shall first be endorsed by the Assistant Chief Commissioner (Estate). Should the procuring scout unit choose not to set up its own tender board, the tender recommendations can be submitted to CWTB for approval.

For adhoc minor repair of cost not exceeding HK\$5,000.00 and funded by the procuring scout unit, approval to tender recommendation can be approved by the head of the procuring scout unit in writing and filed for record.

3.2.4 For the avoidance of doubt, the money value limits specified in 3.2.1, 3.2.2 and 3.2.3 above apply to capital works projects themselves and not the consultancy services. Jurisdiction over tendering matters of consultancy services shall follow their parent projects. For standalone consultancy, directive on which tender board to go shall be sought from the Assistant Chief Commissioner (Estate).

3.2.5 Tender reports / submissions will be considered by the relevant tender board at its meetings. Tender reports / submissions may also be considered by circulation with members' views and recommendations recorded on file.

- 3.2.6 In seeking advice or approval of tender board, procuring scout unit shall send appropriate copies of the submission and associated supporting documents to the secretary of relevant tender boards, simultaneously copied to Estate Branch. For submission to unit tender board, Estate Branch may as appropriate provide its views to unit tender board for consideration. The Budget Holder concerned, or his Project In-charge, may be requested or may himself request to attend the board's meeting to present his recommendations or to answer any queries that the tender board may have.
- 3.2.7 In considering a procuring scout unit's tender report / submission, the tender board shall take into account the scout unit's recommendation and justifications. The board may seek clarifications from the scout unit before accepting the scout unit's recommendation.
- 3.2.8 Notwithstanding the delegated authority to procuring scout units to set up their own tender boards in accordance with 3.2.3 above, decision on the following tender recommendations shall only be considered and approved by CWTB –
- (a) cancellation of tender exercise;
 - (b) not to accept any tender in a tender exercise;
 - (c) acceptance of a tender other than the lowest conforming offer; and
 - (d) acceptance of a tender other than the tender with the highest overall score in case a marking scheme is used in tender evaluation.
- Decisions by CWTB in the same context for projects procured by Estate Branch shall seek endorsement of the Chief Commissioner (on the advice of HQTB).
- 3.2.9 In case of disagreement among members of CWTB on the tender matters, the Board Chairman shall refer the matters to the Chief Commissioner for the advice of HQTB. If there is a division of opinion on tender matters amongst members of procuring scout unit tender board, the board chairman should refer the matters to CWTB for advice.
- 3.2.10 Estate Branch shall submit half-yearly summary reports on all quotation / tender exercises conducted and contracts awarded by individual procuring

scout units, including those cases where no quotations / tenders are accepted or tender exercises are cancelled, to HQTB for reference and record. In this regard Estate Branch will as necessary require procuring scout units / heads of procuring scout units to provide the relevant particulars.

3.3 Classification of Tender Information

- 3.3.1 All communications and documents regarding tenders must be classified as “RESTRICTED (TENDER)”. Correspondence on prequalification and single tendering should also be classified as “RESTRICTED (TENDER)”.
- 3.3.2 Contract documents and communications regarding contracts do not usually have a security classification. “RESTRICTED” will be an adequate classification for sensitive information relating to contract disputes, litigation, claims, etc. Information should only be classified as “CONFIDENTIAL” if its disclosure would be prejudicial to the interest of SAHK.
- 3.3.3 The Budget Holders and chairmen of tender boards shall appoint officers to open and handle classified correspondence relating to tenders and contracts on a need-to-know basis. The officers shall handle the information in an extremely careful manner so as not to leak the information out to other parties not involved in the tender process.

3.4 Types of Procurement

- 3.4.1 Procurement shall normally be done by the use of open and competitive tendering procedures so as to obtain the best value for money. However, selective tendering process can be adopted so as to save administrative costs, where it has been established that there exists suitable consultants / contractors. Where the nature of the contract dictates that tenders have to be invited from qualified contractors, prequalified tendering may be used. Single tendering is only permissible under specified exceptional circumstances as stipulated in 3.4.2.9 – 3.4.2.11 below. Where the project is funded by outside body, the procurement approach of the funding body

shall be followed and complied with, observing as appropriate also the requirements contained in this Technical Note.

3.4.2 The various types of tenders are invited in the following ways –

Open Tendering

3.4.2.1 Tender invitations shall be published in SAHK's website. All interested consultants / contractors are free to submit tenders. Since SAHK's website is not a must-read by trades, procuring scout units can consider simultaneously sending tender invitations to some suitable tenderers, who should be shortlisted following the procedures in 3.4.2.2 and 3.4.2.3 below, to increase the chances of having sufficient tender returns.

Selective Tendering

3.4.2.2 This is the approach normally employed for the projects. Tender invitations are sent by letters (or can be by fax for project works and routine maintenance with estimated cost not exceeding HK\$50,000.00) to consultants / contractors shortlisted for the purpose of selective tendering. Unless stated otherwise, all shortlist should be first approved by the Chief Commissioner (on the advice of HQTb) or CWTB as appropriate. When seeking approval to such a shortlist, procuring scout units shall set out justifications and provide information on the source of prospective tenderers, qualification criteria, assessment panel and method of assessment. The qualification criteria and assessment method shall not discriminate among consultants / contractors, and should be limited to those which are essential to ensure the ability of the consultants / the contractors to provide the required services. The Chief Commissioner / CWTB may, at their absolute discretion, require the procuring scout units to include additional tenderers in the shortlists. In this regard, the Assistant Chief Commissioner (Estate) is responsible for providing advice on the additional tenderers to be included.

For project works and routine maintenance with an estimated project cost not exceeding HK\$50,000.00 and funded by procuring scout unit AND its tenderer shortlist contains at least two appropriate tenderers selected from the contractor lists maintained by Estate Branch, the unit tender board is delegated with the authority by CWTB to approve the tenderer

shortlist. Such an approval shall be in writing and simultaneously copied to Estate Branch for control / record purpose. For adhoc minor repair of estimated cost not exceeding HK\$5,000.00 and funded by procuring scout unit, the head of the procuring scout unit is delegated with the authority by CWTB to approve the tenderer shortlist.

- 3.4.2.3 In establishing shortlists for tendering of works contracts, consideration shall be given to adopting, as appropriate, the List of Approved Contractors for Public Works, the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, the List of Registered General Building Contractors, the List of Registered Minor Works Contractors, the List of Registered Lift and Escalator Contractors and the like, promulgated by various bureaux / departments of the Government of HKSAR. For establishing a shortlist for capital works related consultancy services, reference can be made to the consultants directories prevailing in relevant trades.

Prequalified Tendering

- 3.4.2.4 There may be circumstances which require the prequalification of a list of tenderers financially and technically capable of undertaking a particular project. These include projects which require pre-testing of equipment to determine its suitability; projects of an extremely complex nature, high value or subject to very rigid completion programmes; projects which call for a high level of co-ordination, technical expertise; or a non-standard form of contract, e.g. Build-Operate-Transfer or Design-and-Build contracts; and products which are critical to the users.
- 3.4.2.5 Prequalification exercises require the prior approval of the Chief Commissioner (on the advice of HQTb) or CWTB as appropriate. A request for approval to conduct prequalification should contain all necessary information including screening and evaluation criteria. Invitations to apply for prequalification may take the approach of open tendering or selective tendering and the respective procedures shall apply. If the selective tendering mode is chosen, the shortlist for prequalification shall be established following the procedures in 3.4.2.2 and 3.4.2.3 above.
- 3.4.2.6 Having assessed all the applications according to the evaluation criteria previously endorsed by tender boards, the procuring scout unit should

make a recommendation to the Chief Commissioner (on the advice of HQTB) or CWTB as appropriate, on a list of prequalified applicants from whom tenders will be invited. The submission should contain an analysis of the strengths and weaknesses of all the applicants and detailed reasons why the applicants should be prequalified or rejected.

3.4.2.7 Procuring scout units shall advise prequalified tenderers that SAHK may permit changes to the status of a prequalified tenderer at its discretion and may disqualify a prequalified tenderer at any time, if a prequalified tenderer is considered to have ceased to be able to meet the prequalification requirements. Any material changes in the particulars of the prequalified tenderers which occur between the prequalification and final tendering exercise will require the endorsement of the Chief Commissioner (on the advice of HQTB) or CWTB as appropriate prior to invitation out of tenders.

3.4.2.8 Tender invitations shall be sent by letter to those prequalified consultants / contractors approved by the Chief Commissioner or CWTB as appropriate.

Single Tendering

3.4.2.9 Tender invitation is sent to only one consultant / contractor. The tenderer shall not be informed that tender is being invited on a single basis.

3.4.2.10 Single tender procedures shall only be used in circumstances when open or selective competitive tendering would not be an effective means of obtaining the requisite services, for example –

(a) where there is extreme urgency brought about by unforeseeable events and where the delay that would arise as a result of open tendering or selective tendering would seriously harm the interests of SAHK;

(b) where for reasons connected with the protection of copyrights or for technical reasons, the products or services can only be supplied by a particular supplier and where no reasonable alternative or substitute exists;

- (c) where there is no response to an open or selective tender, or when the tenders submitted have been collusive, or have not been in conformity with the essential requirements in the tender, or from suppliers who do not comply with the conditions for participation, on condition that the requirements of the initial tender have not been substantially modified in the contract as awarded;
- (d) where the equipment or services to be purchased must meet requirements of compatibility or interchangeability with already existing equipment or services;
- (e) where it can be demonstrated that “patent” or “proprietary” items are the only items which can meet the specification;
- (f) where services are to be provided by specific utility companies;
- (g) where maintenance is to be executed on patent or specialized equipment and where the warranty of the equipment gives the supplier of the equipment the exclusive right to carry out the maintenance service; and / or
- (h) where lease terms require that work must be executed by a particular firm.

3.4.2.11 Single tender procedures shall not be initiated without the prior approval of the Chief Commissioner who should take into consideration the advice of HQTB and the Assistant Chief Commissioner (Estate). Requests for approval to invite single tender should be signed by the Budget Holder with justifications and recommendations. Notwithstanding the approval, the procuring scout unit shall still follow all other tendering procedures in this Technical Note including the submission of tender recommendations to the Chief Commissioner (on the advice of HQTB) or CWTB as appropriate for approval. For emergency repair aiming to stop further deterioration of the situation and / or to reinstate the facilities back to a safe state with an estimated cost not more than HK\$50,000.00, the authority for granting approval to single tendering and tender award has been delegated to the Assistant Chief Commissioner (Estate). For emergency repair with an estimated cost more than HK\$50,000.00, approval of single tendering shall be vested in the Chief Commissioner,

who may approve without the advice of HQTB in light of the emergency situation.

Use of Screening Criteria and / or a Marking Scheme for Tender Evaluation

3.4.2.12 For projects where the quality of service or product is of paramount importance and needs to be taken into account in the tender evaluation, procuring scout units may consider adopting screening criteria and / or a marking scheme in the tender evaluation.

3.4.2.13 Use of screening criteria and / or a marking scheme for tender evaluation requires the prior approval of the Chief Commissioner (on the advice of HQTB) or CWTB as appropriate. In the submission to the Board for approval, the procuring scout unit shall provide a brief description of the project to be purchased, its estimated value, justifications for the use of a marking scheme, the screening criteria, the respective weighting for technical and price assessment, the assessment criteria and their relative weighting.

3.4.2.14 Since the use of screening criteria and / or a marking scheme invariably involves a technical evaluation conducted separately from the tendered sum comparison, a two-envelope approach shall be adopted. Guidelines on the screening criteria / marking scheme and two-envelope tendering approach are given at **Annex 4**. If only screening criteria are used, consideration can be given not to use the two-envelope approach but agreement of the Assistant Chief Commissioner (Estate) in this regard shall first be sought.

Quotations

3.4.2.15 Quotations through written means can be employed for procurement of certain categories of capital works and consultancy services. The quotation documents shall contain all necessary essentials so as to enable fair and competitive returns. A sample of quotation document, to be updated by Estate Branch and promulgated by DPSC from time to time, will be provided for reference.

3.4.2.16 For adhoc minor repair and emergency repair as stipulated respectively in 1.1.3 and 3.4.2.11 above, verbal quotation is allowed.

3.5 Number of Quotations/ Tenders

3.5.1 The procurements for capital works projects and related consultancy services should follow the quotation or tender requirements listed below:

<u>Value of a single procurement/contract</u>	<u>Quotation/ Tender Requirement</u>
- Not exceeding \$5,000	- at least 2 verbal quotation obtained
- \$5,001 to \$50,000	- at least 3 written quotations invited
- \$50,001 to \$100,000	- at least 4 written quotations invited
- \$100,001 to \$1,000,000	- at least 5 tenders invited & 2 tenders obtained
- \$1,000,001 and above	- at least 6 tenders invited & 3 tenders obtained

4.1 Tender Documents and Specifications

4.1.1 Procuring scout units are required to provide in the tender documents all the necessary information to assist the bidders to prepare their tenders. Normally, a set of tender documents shall comprise at least the following –

- (a) terms of tender, including the conditions which a tenderer has to meet / observe when submitting a tender, the tender validity period, the currency to be used for the contract, etc;
- (b) conditions of contract covering the conditions which the contractor has to comply with in executing the contract;
- (c) offer to be bound or Form of Tender to be signed and completed by the tenderer to include his address and the tendered sum;
- (d) insurance requirements;
- (e) payment terms;
- (f) tender specifications (see **Annex 5**);
- (g) drawings as appropriate;
- (h) bills of quantities or quantities required for the contract where applicable;
- (i) detailed price schedules or schedule of rates where applicable; and
- (j) requirements for the preparation and submission of as-built drawings and operation / maintenance manuals as appropriate.

For the avoidance of doubt, tender documents and specifications shall be prepared by procuring scout units in full compliance with this Technical Note. Where the project has an estimated value at HK\$0.4 million or above (for consultancy services) or at HK\$1.0 million or above (for capital works projects) AND its tender documents are not prepared by professional consultants, the tender documents and specifications shall be endorsed by suitable committees of the procuring scout unit. Projects funded by the capital works budget maintained by Estate Branch / specific budgets

approved by SAHK, the tender documents / specifications shall all be submitted to Estate Branch for vetting.

- 4.1.2 Procuring scout units should not disclose the estimated contract value to tenderers as it may become a main guiding factor in the preparation of their tender proposals, which may be reduced or, of even more concern, expand unnecessarily, thus undermining the principles of competition and value for money.
- 4.1.3 For projects / contracts employing unusual procurement approach, unusual contractual terms or carrying high risks of claims, consideration shall be given to having the tender documents vetted by a legal professional independent of the tender preparation team or by the Legal Advisor of SAHK before they are issued to tenderers. If the vetted documents have been substantially amended after they have been issued to tenderers, they should be legally vetted again before the contract is awarded.
- 4.1.4 Tender documents are generally issued free of charge but procuring scout units may consider levying a non-refundable sum from tenderers to cover the cost of the tender documents.

4.2 Information on Quantities

- 4.2.1 When tenders are called for the execution of a project or the provision of services on the basis of a schedule of prices or rates, procuring scout units shall give tenderers an indication of the estimated quantity, scope of the contract and any other related information in order to obtain realistic and competitive tenders.

4.3 Tenders in Foreign Currencies

- 4.3.1 In general, contract sums for SAHK contracts should be quoted and paid in Hong Kong dollars. Approval of EC of SAHK shall be sought for allowing tenderers to quote in foreign currencies.

4.4 Tender Deposits

- 4.4.1 A tender deposit is not normally required. Where a tender deposit is demonstrated by the procuring scout unit as a pledge of the tenderer's good faith, the tender documents shall specify the amount of the deposit and the methods of payment (whether by cheque, cashier order and / or presentation of original receipts along with the tender) and refund. Tender deposits will be refunded to unsuccessful tenderers without interest.

4.5 Contract Deposits / Performance Bonds

- 4.5.1 For works contract of an estimated value at HK\$10.0 million or above, successful tenderers may be required to pay a contract deposit (in the form of cash) or submit a performance bond to SAHK within a specified period before contract signing (rather than at the time of tender submission) as security for the due and faithful performance of the contract. Normally, the amount of contract deposit or performance bond required is 2% to 5% of the estimated contract value. A performance bond may be in the form of a guarantee arranged by a bank, insurance company, or the parent company (which has been assessed to be financially capable) of the tenderer.
- 4.5.2 If a procuring scout unit demonstrates it essential to impose a contract deposit or performance bond, it shall be stipulated in the tender documents the amount required, the payment method and the rights of SAHK to decide whether the guarantor is acceptable and to refuse the offer from any tenderer which fails to meet SAHK's requirements.
- 4.5.3 Contract deposits shall not be refunded until the contract has been completed in accordance with the terms of the contract. Likewise, performance bonds must be maintained in force until the contractor has duly performed all his obligations under the contract.

4.6 Retention Money

- 4.6.1 To protect the interest of SAHK, procuring scout units shall include in the payment schedule for the contractor a right for SAHK to hold back a certain sum as retention money, which will not be released to the contractor upon

completion of the contract until SAHK is fully satisfied, after a period of time, with the supplies delivered or the service provided. The amount of retention money is normally pitched at no more than 10% of the contract value.

4.7 Payment Terms

4.7.1 Detailed payment terms and methods are stated in the tender documents. Payment is normally made upon acceptance of the works / services though milestone payments related to performance targets may apply for contracts of high value and complexity. Where the contract period of the contract is fairly long, interim monthly payments based on the works / services executed satisfactorily can be an option.

4.8 Indemnity and Insurance

4.8.1 To protect the interest of SAHK, tender / contract shall include a condition whereby the contractor is required to “indemnify and keep indemnified SAHK including its subsidiaries, affiliated companies, associated companies and / or their directors, officers, members and volunteers that may exist from time to time against all losses and claims for injury or damage to any person or property including project works whatsoever which may arise out of or in consequence of the execution of the project works and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto”. Conditions to require the contractor to “take full responsibility for the care of the project works or any part thereof, and for the care of any plants, temporary buildings and materials and things whatsoever on the site or delivered to or placed on the site in connection with or for the purpose of the project works” shall also be included.

4.8.2 Without limiting the contractor's obligations and responsibilities as stated in 4.8.1 above, the contractor shall be required to procure, effect and maintain at his own expenses before the date of commencement of the contract, in the joint names of the contractor, SAHK and the contractor’s sub-contractors of any tier (if sub-contractors are to be engaged) a third-party insurance policy effective from the date of commencement of the

contract until the date of the issue of the maintenance certificate or certificate of making good defects, against any damage, loss or injury which may occur to any property including that of SAHK (other than the project works), or to any person, by or arising out of or in consequence of the execution of the project works or in the carrying out of the contract. The minimum limit insured for any one incident under the third-party insurance policy normally should be HK\$10.0 million. The third-party insurance policy shall be with cross liability extension clause under which SAHK has the right to claim against the contractor. It should be stated clear in the tender / contract that notwithstanding the joint name arrangement for the third party insurance, the contractor is to bear all excesses under the insurance policy. This insurance requirement may be waived for the project categories listed by Estate Branch through a standing notice promulgated by DPSC from time to time.

- 4.8.3 Where the project works are particularly vulnerable to damage and the cost of repair is likely to be more than the contractor can bear, the contractor shall, without limiting his obligations and responsibilities as stated in 4.8.1 above, be required to procure, effect and maintain at his own expenses before the date of commencement of the contract in the joint names of the contractor, SAHK and the contractor's sub-contractors of any tier (if sub-contractors are to be engaged) a care of the works insurance policy. The insurance policy shall cover the period from the date of commencement of the contract until 28 days after the date of completion of the project works certified. It should be stated clear in the tender / contract that notwithstanding the joint name arrangement for the care of the works insurance, the contractor is to bear all excesses under the insurance policy.
- 4.8.4 Where the project works or part thereof are designed by the contractor, the contractor shall be required to procure, effect and maintain at his own expenses a professional indemnity insurance policy in respect of his obligation in relation to the design and works for a period from the date of commencement of contract until 6 years after the date of the certificate of completion.
- 4.8.5 SAHK shall not be liable for or in respect of any damages or compensation in respect or in consequence of any accident or injury to any workman or

other person in the employment of the contractor or any sub-contractor of any tier. The contractor shall be required to procure, effect and maintain at his own expenses a policy of employees' compensation insurance in accordance with Hong Kong Employees' Compensation Ordinance covering those workers who will be performing the project works before they enter the site and shall ensure that his sub-contractors effect the same. Where self-employed persons will be engaged to work on the project, the contractor shall be required to procure, effect and maintain at his own expenses a personal accident insurance plan to cover them.

- 4.8.6 Where the contractor is required to perform design for the works to be constructed under the contract, the contractor and his independent design checking engineer shall each be required to procure, effect and maintain at his own expenses a professional indemnity insurance in respect of his obligations in relation to the design for a period from the date of commencement of the contract until 6 years after the date of the certificate of completion of the contract.
- 4.8.7 The contractor shall be required, prior to commencement of the project works, to provide SAHK a true copy of the insurance policy or a certificate of insurance, together with a copy of the receipt of premium payment, for each kind of the insurances required.
- 4.8.8 Where a consultant is appointed to perform design and construction supervision for a project, the consultant shall be required to procure, effect and maintain at his own expenses a professional indemnity insurance in respect of his obligations in relation to the design for a period from the date of commencement of consultancy agreement until 6 years after the date of the certificate of completion of project construction or the date of completion of consultancy assignment whichever is the later.

4.9 Time for Completion

- 4.9.1 Reasonable time for completion of the project and, where delay in completion will result in substantial financial loss, liquidated damages for recovering loss as appropriate shall be specified in the tender documents.

- 4.9.2 Where necessary, sectional completion dates for different sections of the project shall be specified so as to meet the phased operation requirements and / or early possessions by procuring scout units particularly if the project is to interface with existing operations and other projects. In working out the completion schedules, consideration must be given to the working hours and working condition agreed with the management of existing operations during the design stage and such working constraints should be clearly and adequately reflected in the tender documents.

5.1 Pre-requisites for calling Tenders

- 5.1.1 Prior to tendering, approval for funds must have been obtained. For this purpose, a comprehensive project estimate based on the finalized requirements and latest market condition, including the price fluctuation, shall be prepared and checked against the approved budget. Any shortfall in funding should be sorted out and supplemented prior to inviting tenders.
- 5.1.2 All legal and administrative procedures shall also have been completed to a stage where all necessary approvals and agreements have been obtained before inviting tenders. For property developments, please refer to “An Outline of Terms and Conditions on Scout Properties” at **Annex 6** for compliance checking.
- 5.1.3 All tender documents (including detailed design of capital works) must be completed to the satisfaction of the Budget Holder and / or the Project In-charge prior to calling for tenders. Where detailed design of construction works cannot be timely completed because of emergency need of the works, every effort shall be made to complete all principal designs and drawings as far as possible before tenders are invited. The potential risks to SAHK in terms of subsequent contractual claims so arise must be carefully evaluated for consideration by the concerned Budget Holder in person. In any event, no tender shall be invited without sufficient drawings / specifications to show to tenderers clearly the works involved.
- 5.1.4 No sub-contracting of the works contract as a whole shall be allowed. For consultancy, it shall not be assigned either in whole or in part. Where sub-contracting of part of the works contract is permitted, there shall be clear requirements in the tender documents on the use of sub-contractors. Where specialized works and / or supply of special materials are necessary, the tenderers shall be required to possess the necessary qualifications or otherwise sub-let that part of specialized works / supply of special materials to qualified sub-contractors. If the latter is the case, letters of intent from the qualified sub-contractor candidates shall be included as part of the tender submissions.
- 5.1.5 The formula to be entered into the Form of Tender for determining the rate of liquidated damages (if applicable) shall be reviewed immediately

before tender invitation, with reference to the latest available information. Where considered necessary, advice from the Treasurer and / or FC of SAHK shall be sought.

5.2 Tender Notice

5.2.1 Invitations to tender include –

- (a) a broad description of the requirement;
- (b) the estimated quantities and timing;
- (c) the special requirements on submissions (if any);
- (d) the location / address / way to obtain tender documents;
- (e) the closing date and time for tenders;
- (f) the place for lodging tenders; and
- (g) the name of the office or officer and the telephone number for enquiries.

A sample of tender notice is provided at **Annex 14** for reference.

5.2.2 Tenderers should be advised to submit their bids before the tender closing date and time, as late tenders will not be accepted. They should also be informed of the alternative tender closing date / time in the event of a black rainstorm warning or tropical cyclone warning signal No. 8 or above being in force at the original tender closing date / time.

5.2.3 For open tendering, tender notices should normally appear in SAHK's website for a period of not less than two weeks.

5.2.4 Normally, we allow at least two weeks for tenderers to submit their bids. For simple and straight forward procurements (e.g. simple decorative works, minor repairs, etc), a tender period of not less than three full working days may be considered. For procurements of a contract of an estimated value exceeding HK\$0.75 million (for consultancy services) or HK\$5.0 million (for capital works projects), at least three weeks should normally be allowed. For prequalification, 21 days would be a minimum. In the case of extreme urgency, procuring scout units will have to seek the

prior approval of the Chief Commissioner to shorten the tender period. This authority currently has been delegated by the Chief Commissioner to the Assistant Chief Commissioner (Estate).

5.3 Declaration of Conflict of Interest and Ethical Commitments

- 5.3.1 Each member of the tender boards and assessment panels, personnel preparing tender documents and personnel involved in the tender process shall sign the declaration(s) at **Annex 7** and shall also declare their interests, if any, as soon as they become aware of a potential conflict.
- 5.3.2 Where consultants are engaged, they shall be required to submit the document at **Annex 8** in respect of conflict of interest and ethical commitments.
- 5.3.3 For tenderers, the following should be included as conditions of tender –
- (a) The tenderer shall not, and shall procure that his employees, agents and sub-contractors shall not, offer, solicit or accept an advantage as defined in the Prevention of Bribery Ordinance, Cap. 201 in connection with the tendering and execution of this contract; and
 - (b) Failure to so procure or any act of offering, soliciting or accepting advantage referred to in (a) above committed by the tenderer or by an employee, agent or sub-contractor of the tenderer shall, without affecting the tenderer's liability for such failure and act, result in his tender being invalidated.

Contractors, where appropriate, shall also be required to submit declarations (**Annex 8**) to confirm their compliance with the ethical commitments.

6.1 Correspondence with Tenderers

- 6.1.1 For all correspondence with tenderers, it should be explicitly stated that the correspondence does not signify either an acceptance or a rejection of their tenders, and that all tenders are still under consideration and SAHK does not bind itself to accept either the lowest or any tender.
- 6.1.2 Where correspondence has been exchanged with a tenderer regarding his tender and it is decided to accept his tender, the procuring scout unit shall decide and agree with the tenderer as to which correspondence shall form part of the contract before accepting the tender.

6.2 Action during tender period

Site visit

- 6.2.1 Tenderers shall be allowed to visit the site if possible. Pre-tender meetings or site briefings shall normally not be held. The site visit shall be arranged with each tenderer individually so as to maintain the confidentiality of the tendering exercise.
- 6.2.2 At the site visit, tenderers shall be informed that any oral responses to enquiries shall not be taken as varying the information in the tender documents unless subsequently confirmed in writing.

Tender addenda

- 6.2.3 If amendments to tender documents are found necessary after they have been issued to tenderers, such amendments shall be prepared and issued as tender addendum.

Remark: Shall there be changes to the scope of the capital works contract before the tender closing date which may affect the rate of liquidated damages or the associated special damages where included in the tender, the formula that have been entered into the Form of Tender for the determination of liquidated damages (if applicable) shall be adjusted by means of a tender addendum.

- 6.2.4 Care must be taken to ensure that any amendments to the documents do actually form part of the contract and also have the requisite effect on it. Tender addendum can be issued as a replacement or additional page marked “Addendum No. ...” which either replaces the original page or serves to amplify / amend the original documents.

- 6.2.5 The tender addendum shall be bound separately to a letter for –
(a) issuance to all tenderers who have collected tender documents; and
(b) attaching to any copies of tender documents which have not been collected at the time of issuing the tender addenda.
- 6.2.6 The letter shall provide for an acknowledgement of receipt by the tenderer, and also a certification by the tenderer that the addendum has been taken into account in preparing his tender.
- 6.2.7 During the tender period, a record of all acknowledgements of receipt returned shall be maintained and clarification shall immediately be sought from those tenderers who have not returned the acknowledgement within the time limit set.

Queries from tenderers

- 6.2.8 All questions put forward in writing by tenderers which suggest the existence of errors or ambiguities in the tender documents shall be carefully examined and, if found justified, a letter attaching the tender addenda shall be issued to all tenderers to correct the errors or clarify the ambiguities.

Extension of time for tender submission

- 6.2.9 The tender period may need to be extended if –
(a) tenderer(s) give(s) substantive reasons showing why tenders cannot be properly prepared within the specified period;
(b) queries raised by the tenderers require significant time to resolve; or
(c) the timing or nature of a tender addendum is considered to be disruptive to the pricing.
- 6.2.10 In any event, consideration must be given to granting an extension due to any addendum, other than those of a very straightforward nature, issued during the last three working days of the tender period.
- 6.2.11 The justification for and the length of the extension to the tender period must be agreed by the Budget Holder (or the Project In-charge if the Budget Holder is the Chief Commissioner) before action is taken. When the need to extend the tender period and the length of the extension have been agreed, all tenderers who have taken out tender documents and Estate Branch shall be informed in writing. Copies of the letter notifying

tenderers of the revised tender closing date and/or time must be attached to tender documents which have not been collected at the time the tender period is extended.

Extension of tender validity period

- 6.2.12 The period for which tenders remain binding is stated in the Form of Tender. If such an extension is anticipated before the tender closing date, a tender addendum shall be issued.
- 6.2.13 After the expiration of this period, a tender cannot be accepted without the written consent of the tenderer to extend the tender validity period. The procuring scout unit shall therefore seek an unconditioned agreement from the tenderer to extend the tender validity period if circumstances warrant. If the tenderer does not agree to the extension unconditionally, it would render his tender ineligible for acceptance after the expiry of the original tender validity period. On the other hand, a tenderer's proposal to extend subject to conditions shall be considered as a qualified bid and be rejected.

6.3 Submission of Tenders

- 6.3.1 Unless otherwise agreed by the Assistant Chief Commissioner (Estate), all tenders shall be submitted in duplicate (one original and one photocopy) in sealed envelopes and deposited in the tender box provided by Estate Branch at 10/F of Hong Kong Scout Centre.

For project works and routine maintenance with an estimated project cost not exceeding HK\$50,000.00 and funded by procuring scout unit, the tenders in sealed envelopes can be deposited in the tender box of the procuring scout unit. In case the procuring scout unit for these project categories is a Scout Group or a District, the tenders shall be deposited in the tender box set up at the concerned Region.

- 6.3.2 Tenderers must submit their tenders before the tender closing date and time stipulated in the tender notice. Late tenders shall not be considered and will be returned to the tenderers without opening the envelopes. Tenderers' attention should be drawn to that their tenders must be deposited before the tender closing date and time and correctly in the

tender box specified in the tender notice. The procuring scout unit / Estate Branch must ensure that the tender box is properly locked, free from disturbance and properly placed at the location specified in the tender notice.

- 6.3.3 For two-envelope tendering system, the technical proposal and price proposal must be submitted under separate envelopes and clearly labelled. This requirement must be clearly highlighted in the tender notice.

6.4 Opening of Tenders

- 6.4.1 At the closing time of tenders, a designated tender opening team (comprising a member of CWTB, a representative of the procuring scout unit, concerned Assistant Chief Scout Executive and / or Chief Scout Executive where the project cost exceeds HK\$5.0 million or the project is administered by Estate Branch, a representative of Estate Branch, and any other Scout Executive as appropriate) will open the respective tender box. Only tenders which are due are opened and authenticated by the tender opening team. The Assistant Chief Scout Executive / Scout Executive of the tender opening team will make appropriate records on file of the tenders received. The photocopy of the tenders received will be retained by Estate Branch for record. The original of the tenders will be collected by the procuring scout unit for assessment.

For tenders allowed to deposit in tender box of procuring scout unit, the tender opening team shall comprise the Project In-charge, a non-uniformed member of EC / ESA and Scout Executive of procuring scout unit. One set of the tenders received together with the opening record shall be sent to Estate Branch for record. In case the procuring scout unit is a Scout Group or a District, the opening of tenders shall be conducted by the Region concerned.

- 6.4.2 For two-envelope tendering system, only the technical proposals / envelopes are opened for the assessment first and the price proposals / envelopes should be kept sealed and under the custody of the Estate Branch or Chief Scout Executive as appropriate. After the completion of the technical assessment, the outcome should be filed with the relevant tender board as well as Estate Branch and the submitted price proposals /

envelopes are then released to the procuring scout unit for conducting the combined assessment to rank the bids in accordance with the specified and pre-defined formula with weightings, having regard to the technical scores and price scores.

- 6.4.3 Where tenders for project funded by outside body are to be deposited at other venue (e.g. Government's public tender box), the arrangement for opening of tenders shall be agreed by the Assistant Chief Commissioner (Estate) beforehand.

6.5 Tender Assessment Panel

- 6.5.1 Tender evaluation should normally be conducted by an assessment panel consisting of not less than three persons comprising at least one uniformed member at commissioner of Grade VI or above and at least two non-uniformed members of the procuring scout unit, where necessary supported by a professional scouter. Where the procuring scout unit does not have professional scouter, a non-uniformed member should be deployed instead. Where the procuring scout unit is a Scout Group, the tender assessment panel shall comprise a commissioner of Grade VI from the concerned District, a leader of the Scout Group, and a non-uniformed member or a Sponsor's representative of the Scout Group. The assessment panel members shall not be the members of the tender board at which the tender recommendation will be considered. Where consultants have been engaged to manage the project, consultants shall take lead in tender examination / assessment and draft the tender report and such duties shall be clearly specified in the consultancy agreements.
- 6.5.2 Professional scouter or the uniformed member (at commissioner of Grade VI or above) of the tender assessment panel shall be responsible for the safe custody of the tender documents. The panel can delegate detailed mathematical checks to professional scouters (or uniformed members holding valid Warrants where the procuring scout unit has no professional scouters) who must be made fully aware of the confidential nature of the tender exercise and documents.
- 6.5.3 The names of personnel checking the tenders must be recorded on file and all checked documents shall be signed and dated by these personnel.

6.6 Clarification of Tenders

- 6.6.1 After receipt of the original tenders from the tender opening team, the tender assessment panel should check that the tenders contain, inter alia, the names and residential addresses of all partners (if the tender is submitted by a partnership) or offices (if the tender is submitted by an unincorporated body) and the business registration certificate numbers.
- 6.6.2 Any clarification or information submitted by a tenderer after close of tender shall not be accepted or considered, unless it is so required by the tender assessment panel.
- 6.6.3 Where certain tender information is found missing or where a tender contains some technical ambiguities, qualifications or counter-proposals, tender assessment panels will need to consider carefully whether to seek the missing information or clarification from the relevant tenderer. In general, tender assessment panels shall keep such post-tender closing contacts with tenderers to the minimum. They shall record clearly and in full all such contacts. Most importantly, they must ensure that such contacts will not give a tenderer any advantage or perceived advantage over other tenderers.
- 6.6.4 The opportunities that may be given to tenderers to correct unintentional errors of form (for instance, clerical errors) shall not be permitted to give rise to any discriminatory practice.
- 6.6.5 Where the provision of certain information is specified as an “essential requirement” in the tender document and where such information is missing in a tender, the tender shall be considered as non-conforming. Tender assessment panels shall not approach the concerned tenderer for the missing information.
- 6.6.6 Where the missing information relates to factual information which does not materially affect compliance with the essential requirements specified in the tender document, and where there is no room for manipulation by a tenderer by virtue of late submission of such information, tender assessment panels may approach the concerned tenderers for such missing information. In other cases, tender assessment panels shall assess a tender with certain information missing as it is.

- 6.6.7 If a clarification or correction results in an adjustment of the tender sum, the tender assessment panel shall ask the tenderer to confirm whether he is prepared to abide by the adjusted tender sum. If the tenderer refuses to so abide, the tender assessment panel shall in the tender report document the case and recommend how to deal with this particular tender. Under no circumstances may a tender assessment panel or procuring scout unit reject a tender as a qualified bid (expressly or otherwise) without the approval of the relevant tender board.
- 6.6.8 In approaching a tenderer for clarification, tender assessment panels must not provide any information that may assist the tenderer to improve his tender to the level of tenders from other tenderers.
- 6.6.9 In case of special circumstances requiring different consideration, procuring scout units shall seek the advice of relevant tender boards.

6.7 Examination and Evaluation of Tenders

6.7.1 The tender assessment panel shall examine tenders against the technical specifications, terms and conditions laid down in the tender documents to determine whether they are fully conforming. In recommending a tender for acceptance, the tender assessment panel should also take into account the following in the evaluation, as appropriate –

- (a) technical and financial capability of the tenderers;
- (b) past performance records of tenderers;
- (c) timely delivery or completion;
- (d) compatibility with existing or planned setups;
- (e) post-completion support and service including maintenance and spare parts provision, warranty and / or guarantees;
- (f) running and maintenance costs; and
- (g) fair market prices.

6.7.2 All tenders shall be checked and evaluated on an equal basis.

6.7.3 Corrections made to tender documents shall be marked in red for easy identification.

6.7.4 Where there are arithmetical mistakes in extending the amount / calculating of tender sum from the billed quantities and the tenderer's rates, the mistakes shall be dealt with as follows –

- (a) for re-measurement contract, the rate inserted in the tender should be taken as correct with the extension, and where appropriate the tender sum, amended accordingly to suit.
- (b) for lump sum contract, the tender sum inserted in the schedule of rate / Form of Tender shall not be amended for any arithmetical mistakes found.

Confirmation from tenderer on his agreement to abide by the rates inserted in the tender and corrected extensions / tender sum for re-measurement contract or to abide by the tender sum inserted in the Form

of Tender for lump sum contract, as the case may be, must be obtained.

- 6.7.5 Confirmation of tenderer that he is prepared to abide by all those rates that are obviously and substantially over or under-priced or not priced at all shall also be obtained. Negotiation with the tenderer in this respect is not appropriate as this may be construed as giving the concerned tenderer an advantage over the other tenderers. Where there are unreasonably high rate items, assessment panels shall work with procuring scout units to check if these will give rise to unexpected financial risks (e.g. quantities much less than actual inadvertently employed in the tender for these high rate items).
- 6.7.6 Where there is no invitation for alternative designs, alternative designs shall not be considered before the assessment of tenders conforming with the tender design is concluded and only the alternative tenders of the recommended tender may be considered. Where alternative tenders are invited, such alternative tenders and those tenders conforming with the tender design shall be similarly treated during tender assessment.
- 6.7.7 Where prior approval has been given for the use of a marking scheme / screening criteria in the evaluation of tenders, assessment panels shall assess the tenders according to the criteria previously endorsed by relevant tender boards. Tenders failing to meet the screening criteria shall not be considered further. Normally, the tender which attains the highest overall score should be recommended for tenders evaluated by marking scheme. The methods for evaluating technical and fee proposals are set out in **Annex 4**.
- 6.7.8 In normal circumstances, the tender assessment panel shall determine the ranking of the tenders, which have fully complied with the tender conditions and specifications, according to the original tender prices or where appropriate the adjusted tender prices, or the overall scores they have attained when a marking scheme is used in tender evaluation. Where price negotiations have been undertaken, the tender assessment panel shall use the negotiated prices to determine the ranking of the tenders or their price scores. The tender assessment panel may only consider other proposals on discounts by a tenderer if his tender is recommended for acceptance. Usually, the tender assessment panel will recommend

acceptance of a tender which fully complies with the tender conditions and specifications, and is the lowest in tender sum or attains the highest score.

6.7.9 The number of tenders that require detailed evaluation and comparison shall be as follows –

(a) *When the ranking of tenders is based on the tendered prices, i.e. no marking scheme is used in tender evaluation :*

If the recommended tender is the lowest, the three lowest tenders should be analyzed in detail. If the recommended tender is not the lowest, the lower tenders, the recommended tender and the next two higher tenders should be analyzed in detail.

(b) *When the ranking of tenders is based on the overall scores, i.e. a marking scheme is used in tender evaluation :*

If the recommended tender is the highest overall scorer, the tenders of the three highest overall scorers should be analyzed in detail. If the recommended tender is not the highest overall scorer, the tenders of the higher scorers, the recommended tender and the tenders of the next two lower overall scorers should be analyzed in detail.

6.7.10 The conforming tenders requiring detailed analysis as above shall also be checked for the following –

(a) the tenders are properly signed by persons authorized and where applicable, details of partners, etc;

(b) the tenderers are believed to be financially capable of successfully carrying out the contract and any other SAHK's contracts he may hold; and

(c) where tender addenda have been issued, a check shall be made to ensure that the tenderers have submitted with their tenders the required certifications for tender addenda. If such certification has not been returned with any one of the tenders, it shall be obtained from the respective tenderer.

6.7.11 In recommending the acceptance of a tender to a tender board, tender assessment panels shall have value for money in mind. For services involving huge expenditures, if the tendered sums are very close or if the

contract to be awarded involves payments over a relatively long period, the tender assessment panel shall compare the tenders by discounting future payments to obtain the present value.

- 6.7.12 If none of the tenders received is fully conforming with the specifications, terms and conditions laid down, procuring scout unit shall consider cancelling the tender exercise and re-tendering with revised specifications, terms and conditions, where applicable. If exceptionally procuring scout units wish to recommend a non-conforming tender, they shall state clearly in the tender report any deviations of the recommended tender from the specifications and terms and the reasons for so recommending. Acceptance of non-conforming tender, recommendation for not accepting any tender or cancellation of tender exercise shall follow the procedures in 3.2.8 and 3.2.9 above.

6.8 Tender Negotiations

- 6.8.1 In general, SAHK's policy is to seek competitive tenders and to select the offer representing the optimal value for money. Under certain circumstances, it would be in SAHK's best interest to negotiate the award of a contract. Any negotiation with a tenderer shall be conducted in a non-discriminatory manner among all conforming tenderers. No negotiation shall be conducted without the prior consent of HQTb / CWTB.
- 6.8.2 To facilitate negotiations, all invitations to tender shall contain a standard provisional clause stating that SAHK and / or the procuring scout unit reserves the right to negotiate with any or all tenderer(s) about the terms of the tender.
- 6.8.3 The person to lead the negotiation shall be a commissioner of Grade V or above. In all cases, only persons with no real or potential conflict of interest shall lead or participate in negotiations.
- 6.8.4 Proper procedures, including keeping proper records of the negotiations, shall be established beforehand and strictly adhered to. Negotiations may be conducted by exchange of correspondence and / or meetings. Under no circumstances shall negotiations be conducted orally by a single negotiator.

6.8.5 Some guidelines on preparing for and conducting negotiations are provided at **Annex 9** for general reference. They are not intended to be comprehensive.

6.9 Tender Reports

6.9.1 The procuring scout unit together with its tender assessment panel / consultants shall prepare a tender report containing a clear recommendation. The tender report shall be completed in a comprehensive manner. Key statements shall be written in active voice in order not to blur accountability. For example –

- I recommend acceptance of the tender submitted by
- I consider that the recommended tenderer is suitable to carry out the contract
- I confirm that the recommended tender is in full compliance of contract terms
- I consider it realistic to accept the recommended tender

6.9.2 Tender reports for consideration by HQTb and CWTb shall be signed by the Budget Holder, and where appropriate endorsed by EC / ESA of the procuring scout unit, save the following –

- (a) where the Chief Commissioner is the Budget Holder of the project, the tender report shall be signed by the concerned Project In-charge; and
- (b) for project funded by the capital works budget of Estate Branch, the tender report shall be signed by the head of the procuring scout unit.

6.9.3 Tender reports for consideration by tender board of procuring scout unit shall be signed by the tender assessment panel.

6.9.4 Where consultants have been engaged to run the procurement, the consultants shall sign and the Budget Holder / head of the procuring scout unit / Project In-charge / tender assessment panel as appropriate shall counter-sign the tender report.

6.9.5 A standard format cum checklist for preparation of tender report is at **Annex 10**. Where the project is of cost not exceeding HK\$50,000.00, the

procuring scout unit can choose to adopt the simplified tender report format at **Annex 15**. For emergency repair as set out in 3.4.2.11 above, works can be, with prior agreement of the Assistant Chief Commissioner (Estate), executed before submission of the tender report.

6.10 Award of Tender

Checks prior to accepting tender

- 6.10.1 The following checks, amongst others, shall be made by the procuring scout units to ensure that –
- (a) the funds are readily available for payments to the contractor;
 - (b) the land required for the work is available by the contract commencement date or, for staged possession of site, in accordance with the schedules set out in the contract; and
 - (c) the rate of liquidated damages entered into the Form of Tender is a genuine pre-estimate of SAHK's loss judged at the time of entering into the contract and has been agreed by the successful tenderer.

Acceptance of tender

- 6.10.2 A letter of acceptance shall be sent to the successful tenderer specifying the following, amongst others –
- (a) a list of all correspondence exchanged with the successful tenderer both during the tender period which has been agreed to form part of the contract;
 - (b) the date for commencement of the contract;
 - (c) details of insurance to be provided by the contractor, if applicable;
 - (d) details of bond / security to be provided by the contractor, if applicable;
 - (e) the place, date and time for executing the Articles of Agreement, if necessary;
 - (f) the requirement for a power of attorney for executing the Articles of Agreement, if necessary;
 - (g) the title and address of the consultants / architects / engineers

managing the procurements, if applicable;

- (h) the requirement for submission of programme (and the safety plan), if necessary; and
- (i) any other relevant instructions or matters relevant to the acceptance of the tender.

A sample letter of acceptance is provided at **Annex 16** for reference. It shall be observed that once the letter of acceptance is issued to the tenderer, a binding contract exists between the tender awardee and the procuring scout unit, and there is no need in the letter to ask the tender awardee to confirm / acknowledge that they are willing to undertake the works / contract.

- 6.10.3 The letter shall be signed by the Budget Holder of the project, simultaneously copied to Estate Branch, and shall only be issued after receipt of the approval of tender board or the Chief Commissioner, as the case may be. Where the Chief Commissioner is the Budget Holder of the project, the letter shall be signed by the concerned Project In-charge. For project funded by the capital works budget of Estate Branch, unless specified otherwise, the authority for signing the letter has been delegated by the Assistant Chief Commissioner (Estate) to the head of the concerned procuring scout unit.

Feedback and debriefing to unsuccessful tenderers

- 6.10.4 Immediately after the letter of acceptance has been sent to the successful tenderer, all unsuccessful tenderers who have submitted tenders shall be notified in writing that their tenders have not been accepted.
- 6.10.5 Unless otherwise requested by the unsuccessful tenderers, debriefing to unsuccessful tenderers shall be avoided.

Disposal of unsuccessful tenders

- 6.10.6 Submissions from unsuccessful tenderers shall be returned to Estate Branch for retention until completion of the contract, after which they shall be destroyed.

6.11 Amendments to the Project

- 6.11.1 Except with the agreement of EC / ESA of the procuring scout unit and / or EC of SAHK as appropriate, no change to the scope of project shall be effected. For projects under the capital works budget of Estate Branch, prior approval of the Assistant Chief Commissioner (Estate) shall first be obtained. Where the project is under the jurisdiction of EC of SAHK, the agreement to change in the project scope shall normally be routed through FC of SAHK.
- 6.11.2 Any amendments to the contract outside the terms of contract and / or required after acceptance of tender can only be made by means of a supplementary agreement with the consultants / contractor. Execution of supplementary agreement shall have the prior approval of the Chief Commissioner (on the advice of HQTB).
- 6.11.3 In general, variations to contract shall only be ordered if they are under the terms of the contract and for satisfactory functioning and completion of the project. For variations carrying significant time or financial implications, prior written approval from the relevant Budget Holder in person shall be sought by the procuring scout unit with justifications. Unless with the prior approval of the concerned EC / ESA, no variation should be ordered if the cumulative value of the variation to be ordered and the variations ordered exceeds the contract contingency (normally set at no more than 10% of the estimated works value) or approved budget. Where the project is under the jurisdiction of EC of SAHK, the approval to order variation resulting in the said excess shall normally be routed through FC of SAHK. For capital works under the capital works budget of Estate Branch, prior approval of the Assistant Chief Commissioner (Estate) is necessary for ordering any variations.

6.12 Exemption for Emergency Repair

- 6.12.1 Except the submission of a simplified tender report as required in 6.9.5 above, all the tendering procedures stipulated in Clause 6 may be exempted at the discretion of the Assistant Chief Commissioner (Estate) for emergency repair under the delegated authority in 3.4.2.11 above.

7.1 Miscellaneous

- 7.1.1 The procuring scout unit shall keep proper records of contract information including the dates for invitation of tenders, contract award, contract commencement, completion, expiry of defects liability period / maintenance period. One copy of the information shall be passed to Estate Branch for record purpose.
- 7.1.2 The procuring scout unit shall keep close monitoring of the procurement progress in terms of time, cost and quality. Any discussions and meetings with consultants, suppliers and / or contractors shall be properly documented and filed. The aforesaid meeting minutes / discussion notes shall also be copied to Estate Branch for information. The procuring scout unit shall make use of “Estate Branch Form EB003” at **Annex 11** to report to Estate Branch on the progress of the project works.
- 7.1.3 The procuring scout unit shall report within one month after the completion of the contract the performance of the contractors and / or consultants using “Estate Branch Form EB004a” (for contractors) at **Annex 12** and “Estate Branch Form EB004b” (for consultants) at **Annex 13**. Estate Branch will in this regard maintain a “Summary of Performance Appraisal of Consultants and / or Contractors” for reference.

7.2 Procedures for Handling Complaints

- 7.2.1 Tenderers may lodge complaints about the process or the result of a tender exercise. All complaints received shall be referred to the Chief Commissioner who will at his discretion assign the case to the relevant tender board or a purposely-set panel to deal with the complaint. On receipt of the assignment, the tender board or the panel shall deal with the complaint in an impartial and timely manner, and provide an early and substantive reply to the complainant direct. An interim reply shall be sent to the complainant if a substantive reply cannot be issued shortly.
- 7.2.2 For complaints on capital works projects and related consultancy services funded by the capital works budget of Estate Branch, the Assistant Chief Commissioner (Estate) shall be consulted before replying to the complainants.