



4 January 2016

Our Ref:



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By fax and post

2536 9299

Mr. CHAN Chi Ming, JP
Deputy Secretary for Development (Works) 2
Development Bureau
18/F, West Wing, Central Government Offices,
2 Tim Mei Avenue, Tamar, Hong Kong

Dear *CM*,

Admission / Management Rules for the Approved Lists of Contractors for Eligibility of Joint Ventures to Tender

We refer to your consultant paper proposing changes to the captioned rules in Nov 2015 and the subsequent meeting with our Members on 8 December. As requested, we summarized our comments herebelow for your consideration and further actions.

Your rationales leading to the proposed changes

You explained at our meeting about your office's observations and concerns on an apparent reduction in the number of approved contractors and their declining participation rate of public works since the turn of the century, and, so your office sees a need to bring in more contractors from outside. We believe your above observations were only the natural results of the continuous drop in investment in local construction from 1998 to 2007, and, the contract size of public work projects being packaged since 2008. We do not, therefore, see it as a result of lack of competition as the figures may insinuate.

We are sure that your office is fully aware that the construction industry has been working above its capacity since 2010 with a stressed site supervision workforce and an acute shortage of suitably skilled and aging workers. The situation was known to exist in the past few years but remained unresolved. Despite an increase in incentives and our concerted effort to attract new

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workers, the result speaks for itself. Only 14,300 skilled workers complete training in the past 45 months (In 2012 to Sep 2015) based on CIC released figures. Even if every single one of them joined and remained in the workforce, the number is still totally insufficient to meet the current and future demand of our industry amidst dropping productivity and retirement of aging workers in the past and in particular the coming few years. This will remain the case irrespective of the number of outside and local contractors allowed to tender for public sector projects.

More of our views and comments are reflected in the various headings that follow.

(I) Group Tender Limits

The last update to the captioned rules were introduced in 2013 and our members are extremely disappointed that subsequent to the then increase in limits there had not been corresponding increase nor were there too many projects being out for tender in the various Groups. Our Members were aggrieved by the lack of tendering opportunities for Group A & B. The numbers of tender called under the respective Groups in the past 12 months speak for itself. According to record, there were only 29 projects being tendered for Group A & B in the past 12 months of average project values below \$10 million.

The level of capital requirements for the Approved Contractors were tied to tender limits and if there were few opportunities, maintaining an increased level of capital is a waste of financial capacity from the contractors' perspective.

As put forward to you at our meeting, we received request from members to seek exclusion of those private sector projects turnover in capital requirement computations when Demand Bonds were provided. Demand Bonds were procured to provide specific covers for the financial risks arising from particular private sector projects and the protected risks should not be double counted.

We, therefore, will not accept any further proposal to raise the group tender limits before both the tendering opportunity and capital employed issues are satisfactorily resolved.

(II) Direct Entry to Confirmed Status

We object to the proposed relaxation to allow direct entry to confirmed status. All of the currently listed contractors demonstrated their commitment, capability and understanding of the public sector project requirements before being admitted and we are not convinced of any overriding reasons for your office to skip this test. The same reasons stated under (IV) below also applies here.

(III) Qualifications of Top Management and Technical Personnel

Our Members do not have any adverse comments to the proposal and welcome the move as it took into consideration of the shortage in site supervisory staff.

(IV) Non listed contractors as major share leader of Joint Ventures

HKCA believes the government should give priority to nurture those committed and locally established contractors. Overseas contractors, albeit may bring with them technical knowhow and specialties, were unable to bring in the much needed skilled frontline workers. Without an open labour policy, overseas contractors would only compete with local established contractors on those already scarce local resources including site supervising staff, subcontractors and workers. It is our strongest view that new overseas contractors should only be considered for admission to the List of Approved Contractors (Probationary Status) after they have demonstrated a higher degree of commitment to Hong Kong.

Contractors new to the public sector or the local market may initially appear to be very receptive to project demands. However, our industry had suffered a number of unpleasant incidents where new to Hong Kong overseas contractors abandoned their responsibilities before project completion causing all sorts of problems to their local partners. There is,

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incidentally, one of these cases being reported in the local media on 28 December 2015 and views shared were amongst those of our Members'.

The same reasons stated under (II) above also applies here.

In conclusion, we object to your proposal to allow non-listed contractors taking major share and lead in public work Joint Venture.

Yours sincerely,



Thomas TSE
Chief Executive
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