

**FINANCIAL CIRCULAR NO. 2/2019
[Updated on 25 September 2020 vide FSTBCM No. 12/2020]**

Pro-innovation Government Procurement

(Note : Distribution of this Circular is **Scale C**.
Directors of Bureaux, Controlling Officers and
all officers dealing with procurement should
read it.)

Introduction

This Circular promulgates details of the new pro-innovation government procurement policy announced by the Chief Executive (CE) in her 2018 Policy Address, revisions to the Stores and Procurement Regulations (SPRs), measures to facilitate the participation of market players (including start-ups and small and medium sized enterprises (SMEs)) in government procurement, as well as assistance available to procuring bureaux/departments (B/Ds).

2. This Circular –

- (a) supersedes Financial Services and the Treasury Bureau (FSTB) Circular Memorandum No. 8/2014 on “Keeping Tender Documentation Simple”; and
- (b) should be read in conjunction with Financial Circular No. 3/2019 on “Protection of Non-skilled Workers Engaged by Government Service Contactors”.

/ Coverage and effective date

Coverage and effective date

3. The new pro-innovation government procurement policy will take effect from 1 April 2019. Unless otherwise specified¹, the new procurement procedures set out in this Circular will apply to tenders to be invited on or after 1 April 2019.

Background of policy review

4. Procurement is one of the eight major areas for innovation and technology (I&T) development identified in CE's 2017 Policy Address. The Government has conducted a review on the procurement of stores, non-works and non-consultancy services and revenue contracts, as well as improvement measures to facilitate the participation of more market players including start-ups and SMEs in these procurements. The review does not cover works contracts² which are subject to a well-established procurement regime spearheaded by the Development Bureau (DEVB) with incentives for innovation and creativity; and consultancy services where there is adequate room for recognising innovation.

5. In September 2018, the Steering Committee on Innovation and Technology (SCIT) chaired by CE endorsed a new pro-innovation government procurement policy that aims to render the government procurement system more enabling for and receptive to innovative suggestions. As a result, a revamp of the procedural requirements for the procurement of stores, services (excluding works contracts³ and consultancy) and revenue contracts is necessary.

/ 6.

¹ See paragraphs 14(b), 21 and 32 of this Circular and the amendments to Chapter II of the SPRs summarised in **Annex B** which will apply to procurement under quotation procedures.

² According to DEVB Technical Circular No. 5/2012 (as may be updated from time to time) and DEVB's relevant guidelines, "works contracts" includes but is not limited to "construction and engineering works services" as defined under SPR 220(b).

³ The pro-innovation principle generally applies also to the procurement of works contracts. B/Ds are advised to refer to the procedural requirements set out in the relevant DEVB Technical Circular(s) which cover incentives for innovation and creativity for these contracts.

6. We informed B/Ds of the key changes to the procurement system under the new policy on 10 October 2018 to facilitate forward planning by B/Ds. This Circular promulgates the detailed arrangements after consolidation of inputs from relevant B/Ds. It also sets out the corresponding changes to the procurement of works contracts and consultancy services in the SPRs.

Policy and principles of government procurement

7. The Government procures stores and services with taxpayers' money and is therefore accountable to the public for the proper and effective use of public resources to ensure value for money. The policy of government procurement is to obtain stores and services at the best value for money, as explained below, in a publicly accountable manner to support Government's programmes and activities [SPR 106].

8. Government procurement policy is underpinned by the principles of open and fair competition, transparency, and integrity. These principles are conducive to achieving value for money and public accountability, and should continue to be observed. With effect from 1 April 2019, embracing innovation will also become one of the guiding principles in government procurement. As innovation is conducive to securing value for money in the long run, B/Ds should encourage and be receptive to new ideas, and allow room for assessing innovative proposals from bidders in the procurement process [SPR 109].

9. "Value for money" procurement is sometimes misinterpreted as the selection of the lowest priced bid without regard to quality. This is not the case. As affirmed by SCIT and shared by the Audit Commission, "value for money" should be assessed in terms of economy, effectiveness and efficiency, taking into account the total costs involved (measured on a whole-life costing basis) and the overall value to be created or brought about through the procurement. In other words, "value for money" means the optimal use of resources to achieve the best outcome. When buying for the Government, Controlling Officers (COs) should ensure that public funds are well spent in terms of the total positive value to be created or brought about by the procurement. The positive values may include social, environmental, economic and/or other positive values that serve the interest of the public [SPR 107].

10. In the procurement of stores, services (excluding works contracts and consultancy) and revenue contracts, “innovation” includes –

- (a) technology related innovation, meaning the use of new technology or innovative application of existing technology; and
- (b) ideas or suggestions (with no technology content) which are not conventionally adopted or readily envisaged by B/Ds that may create positive value to the Government or the public. These may include ideas or suggestions that –
 - (i) are conducive to the delivery of public services (e.g. resulting in a cleaner environment in a street cleansing service contract);
 - (ii) contribute to defined policy objectives of the Government (e.g. environmental protection in a facility management service contract, or employment of persons with disability in a vehicle maintenance service contract); or
 - (iii) better serve the needs of end-users (e.g. meeting user-centric requirements generated from design thinking process⁴).

To create room for innovation, outcome-based requirements should be adopted as far as possible. Over-specification and over-prescription in product requirements or mode of service delivery should be avoided [SPR 109(c)].

/ Revisions to the Stores and Procurement Regulations

⁴ The Commerce, Economic and Development Bureau (CEDB) and Efficiency Office (EffO) advise that “design thinking is a human-centred approach to problem solving and innovation that integrates the needs of people, the operational viability, and the possibilities of technology”. Please refer to **Appendix A of Annex D** for the “Guide to Applying Design Thinking in Government Procurement” promulgated by EffO.

Revisions to the Stores and Procurement Regulations

11. Chapters I – V of the SPRs and the relevant appendices have been revised. The updated SPRs (both the clean and marked-up versions) have been uploaded onto the Central Cyber Government Office at <http://fb.host.ccgo.hksarg/spr/spr.htm>. The key revisions in each chapter are outlined at **Annex A**.

12. Broadly speaking, the revisions reflect: (a) specific changes to the procurement of stores, services (excluding works contracts and consultancy) and revenue contracts under the new policy; and (b) general improvements to the procurement system for streamlining and to promote innovation.

Specific changes to the procurement of stores, services⁵ and revenue contracts

Requirements on tenderers' experience

13. Tenderers' relevant experience⁶ is often included as an essential requirement⁷ or an assessment criterion in the marking scheme in government procurement. The purpose is to ensure the quality and reliability of the stores and services to be procured. However, some start-ups and SMEs may find the requirement prohibitive.

14. To encourage competition in procurement and minimise entry barriers (particularly for start-ups and SMEs), as a general rule, tenderers' experience should not be set as an essential requirement, irrespective of the value of the procurement (i.e. including procurement under the quotation limit). If it is absolutely necessary to prescribe tenderers' experience as an essential requirement, prior approval must be sought from -

/ (a)

⁵ Exclude works contracts and consultancy services.

⁶ This refers to the experience of the tenderers (i.e. bidding firms), and does not cover the experience of the personnel engaged by the tenderers.

⁷ Essential requirements (such as specification of goods, holding of necessary licence, etc.) are the first threshold of a tender assessment exercise. Only tenders that meet such requirements (i.e. conforming bids) will be considered for technical assessment and price evaluation.

- (a) for procurements adopting marking schemes under tendering procedures, the relevant tender board or Departmental Tender Committee (DTC); or
- (b) for procurements without marking schemes under tendering procedures and procurements under quotation procedures irrespective of the use of marking schemes, public officers (normally at directorate level) designated by COs.

The justifications for seeking exemption from the general rule and the grounds for approval should be properly recorded [SPRs 221A, 350(a) and paragraph 3(e) of Appendix III(F) of the SPRs].

15. Where appropriate, tenderers' experience may be set as an assessment criterion in the marking scheme as a desirable feature [SPR 350(a)]. However, the weighting of the experience criterion should not be disproportional as to place start-ups and SMEs in an unduly disadvantageous position. As a general rule, the percentage of technical marks assigned to tenderers' experience should be capped at 15% of the total technical marks of a marking scheme, as reflected in the Standard Marking Scheme Framework (SMS Framework) at **Annex B**. Deviation from the general rule is subject to prior approval from the relevant tender board/DTC (see paragraph 19 below).

Marking schemes

Wider use of marking schemes

16. **B/Ds should fully consider possibilities for adopting innovative suggestions and assess their potential benefits.** To ensure adequate room in the tender evaluation process for assessing and recognising innovative suggestions, B/Ds are encouraged to adopt marking schemes **with sufficient technical weighting to facilitate the assessment of potential benefits.** Marking schemes should be clear and objective so as to provide a level playing field for bidders and encourage innovative suggestions. In formulating marking schemes, B/Ds should bear in mind user-friendliness and ensure that they are commensurate with the nature, scale and value of the tender concerned [SPR 350(h)].

17. To cater for special and warranted circumstances such as urgent purchase of protective gear in response to pandemic outbreak, or procurement of drugs which has little room for innovative suggestions, B/Ds may decide not to adopt marking schemes in tender evaluation, provided that approvals are obtained from public officers (normally at directorate level) designated by COs under SPR 350(h). The Government Logistics Department (GLD) will invite B/Ds to report such cases on a half yearly interval to facilitate future review on the arrangement.

Standard Marking Scheme Framework

18. To assist B/Ds in designing marking schemes that are receptive to innovation, B/Ds should formulate marking schemes based on the SMS Framework at **Annex B**. The SMS Framework sets out –

- (a) the normally allowed range and relative weighting of technical and price assessments of marking schemes. Under the new policy, the technical and price weighting has been adjusted as follows to create more room for innovation [SPR 350(i)] –

	<u>Technical</u>	<u>Price</u>
Present	30%-40%	60%-70%
New	50%-70%	30%-50%

B/Ds may determine the appropriate technical weighting having regard to the quality requirement specific to the procurement. No prior approval from the relevant tender board/DTC will be required for any weighting set within the normally allowed range. If B/Ds consider it necessary to adopt a technical or price weighting outside the normal range, they must seek prior approval from the relevant tender board/DTC; and

/ (b)

- (b) the permitted range of marks for different types of technical assessment criteria (paragraph 5 of **Annex B**). B/Ds should reserve a minimum of 20% of the technical marks in the evaluation of the execution plan or technical aspects (i.e. Section A of the SMS Framework) for assessing innovative suggestions [SPR 350(i)].

If considered appropriate and applicable, B/Ds may allocate more marks for innovative suggestions in Section A or under other criteria specific to their procurements (i.e. Section C of the SMS Framework).

19. To streamline the procurement process, there is no need for B/Ds to seek prior approval from the relevant tender board/DTC if the marking schemes are formulated within the parameters set out in the SMS Framework. If, however, there is a need to deviate from the SMS Framework to suit specific procurement needs (such as adopting a technical weighting above 70% or departing from the permitted range of marks for specified types of assessment criteria in paragraph 5 of **Annex B**), B/Ds should seek prior approval from the relevant tender board/DTC before tender invitation [SPR 350(i)]. Justifications must be provided and recorded.

20. For service contracts that rely heavily on the deployment of non-skilled workers, B/Ds should follow Framework 2 set out in paragraph 5 of **Annex B**. For this type of procurement –

- (a) the technical weighting for the marking scheme must not fall below 50% under all circumstances. No exception will be allowed. This is to ensure that adequate room will be reserved for assessment criteria relating to labour benefits in the marking schemes; and
- (b) the assessment criteria of “wages” and “working hours” are mandatory in the marking scheme. The technical marks assigned to “wages” must be no less than 25% of the total technical marks. No exception will be allowed. **In devising the technical marks allocated to the assessment of tenderers’ proposed wages, B/Ds should pay due regard to financial prudence and value for money of the contract; and**

/ (c).....

- (c) labour benefit measures must not be “doubled scored” as innovative suggestions in technical assessment as they serve a distinctly different policy objective and will attract marks in their own right.

The relevant tender board/DTC should not approve deviations to these ~~two~~ specific requirements [SPR 350(i)].

21. For the avoidance of doubt, the changes discussed in paragraphs 18 – 20 apply to procurements under tender procedures only. B/Ds may opt for tender procedures or quotation procedures for procurements within the quotation limit. If B/Ds adopt marking schemes for procurements within the quotation limit, they should also follow the SMS Framework in general, unless with prior approval from a directorate officer before the invitation of quotations [SPR 221A].

22. B/Ds may draw up their own departmental procedures on the endorsement of marking schemes to ensure compliance with the SMS Framework. The procedures should be approved by the Director of Government Logistics (DGL) [SPR 126 and paragraph 5 of Appendix III(G) of SPRs].

Use of restricted and single tendering

23. B/Ds should normally adopt open tendering for invitation of tenders [SPR 315]. Under special circumstances where open tendering would not be an effective means of procuring these contracts, departments may invite tenders through, amongst others, restricted or single tendering after obtaining approval from the relevant authorities. They shall not be used for the purpose of avoiding competition among contractors/suppliers/service providers or in a manner that discriminates against non-local contractors/suppliers/service providers or protects local contractors/suppliers/service providers [SPR 325(a)]⁸.

/ 24.

⁸ Open tendering means a procurement method whereby all interested suppliers may submit a tender. Under the single or restricted tendering arrangements, tender invitations are sent to only one or a number of specific suppliers/service providers respectively.

24. Under the new policy, B/Ds are encouraged to procure stores, services or revenue contracts with technological innovation or ideas not conventionally adopted. As the supply of new technology or solution may be restricted in the market (sometimes with only one single supplier), procurement through open bidding may not be feasible or effective. In some cases, trial of new technology or solution is essential for ascertaining the suitability of the product or service before an informed decision can be made on whether the technology or solution meets the operational needs of B/Ds.

25. In view of the above and following the conditions permitted under the Agreement on Government Procurement under the World Trade Organization (WTO GPA), a new SPR 325(a)(v) is added to reflect that where the procurement is for purchasing a prototype or a first good or service that is developed at the request of the procuring B/Ds in the course of, and for, a particular contract for research, experiment, study or original development, it may justify the use of restricted or single tendering, provided that such arrangements are not used for the purpose of avoiding competition as discussed in paragraph 23 above.

26. To streamline the procurement process, the authority of approving restricted or single tendering is delegated to the Permanent Secretary for Financial Services and the Treasury (Treasury) (PS(Tsy)), COs, DGL or his designated staff and relevant tender board/DTC with effect from 1 April 2019 (see the list of approving authority in paragraph 4 of **Annex C** and the relevant SPRs). Restricted or single tendering cases valued up to \$10 million each can be approved at the departmental level. The departmental approving authorities should observe SPR 325 and the guidelines provided in **Annex C** in handling these cases. B/Ds may approach FSTB or GLD for case-specific advice as necessary.

27. For the avoidance of doubt, the delegation to COs, DGL or his designated staff does not cover the procurement of works contracts and consultancy services.

/ Use of direct engagement

Use of direct engagement

28. In very special circumstances (e.g. engagement of a service provider under extreme urgency for safety or security reasons), it may not even be effective or feasible to procure through restricted or single tendering. In these circumstances and when absolutely necessary, direct engagement of contractors/suppliers/service provider without recourse to tendering procedures would be the last resort⁹.

29. Under this procurement mode, tender procedures would not be applicable. B/Ds should observe SPRs 331 – 333 and the guidelines provided in **Annex C**. To streamline the procurement process, with effect from 1 April 2019, the authority of approving direct engagement cases is delegated to PS(Tsy) or COs depending on the value of the procurement (see the list of approving authorities in paragraph 4 of **Annex C** and the relevant SPRs). If necessary, B/Ds may seek case-specific advice from FSTB.

30. For the avoidance of doubt, the delegation to COs does not cover the procurement of works contracts and consultancy services. PS(Tsy)'s approval for direct engagement for these procurements is required.

/ General improvements to the procurement system

⁹ For direct engagement cases, procuring departments will liaise directly with the selected supplier/service provider on the terms and conditions for the provision of goods/services without going through tendering process. Where a procurement is covered by WTO GPA, derogation from the normal use of open and selective tendering procedures is only allowed in exceptional circumstances specified in WTO GPA, for example, on grounds of extreme urgency brought about by unforeseeable events, protection of patents and copyrights, purchase of a prototype or first good or service that is developed for research, experiment, study or original development, or for reasons such as requirements of interchangeability or interoperability with the existing equipment, software, services or installations.

General improvements to the procurement system

New financial limits for Departmental Consultants Selection Committees (DCSCs) and DTCs

31. Since 2013, DCSCs and DTCs have been set up to consider and accept at the departmental level consultancy proposals and non-works tenders valued not exceeding \$5 million each respectively. In view of the smooth operation of DCSCs and DTCs, the financial limits will be raised to \$10 million as provided under SPRs 116 and 220 to enhance flexibility for procuring B/Ds. The new financial limits will take effect from 1 April 2019.

Quotations by means of electronic emails

32. SPRs 260, 280 and 295 have been updated to accept quotations submitted by bidders using electronic mails in response to invitation for quotations. The conventional means of submission remain. They include submission in sealed envelopes, by facsimile, or submission through the e-Procurement System operated by the Office of the Government Chief Information Officer (OGCIO) (<http://www.eprocurement.gov.hk/>) or other electronic procurement system where applicable. B/Ds may also refer to the guidelines provided by GLD separately on the operational details of inviting or accepting quotations by electronic mails.

Engagement of technical expert by tender assessment panel

33. The existing SPRs prescribe that B/Ds should normally establish a tender assessment panel (TAP) for the evaluation of tenders or consultancy proposals. To safeguard the integrity of procurement, a TAP should comprise government officials only. Under special circumstances, advice may need to be sought from outside technical experts.

34. Under the new policy, there may be a stronger need for B/Ds to engage outside technical experts (e.g. to assess innovative suggestions that involve new technologies). In determining the need to do so, B/Ds should explore and ascertain whether the expertise is available within the Government. If affirmative, B/Ds should first approach the relevant B/Ds for support. Outside technical experts may be engaged only if the required expertise is not available within the Government.

35. In consultation with the Independent Commission Against Corruption (ICAC) and relevant B/Ds, Appendix III(G)1 of the SPRs has been revised to guide B/Ds on when and how a technical expert outside the Government may be engaged, as well as the safeguards to uphold the integrity of the procurement process. The safeguards include signing an undertaking by the outside technical expert to confirm the absence of any actual, potential or perceived conflict of interest; limit access of the outside technical expert to tender information strictly necessary for tendering advice; and make clear the non-scoring status and advisory role of the outside technical expert, etc. New SPRs 197 – 198 are introduced to address the avoidance and management of interest relating to the engagement of outside technical expert in procurement.

Procurement approach to facilitate start-ups and SMEs

36. B/Ds are encouraged to divide large contracts into smaller ones to enable more new comers (such as start-ups and SMEs) to enter the market and enhance competition. However, the split should not be proposed with the intention of totally or partially excluding the procurement from the quotation limits set out in SPR 220. Where applicable, milestone payments related to performance targets should be used, and B/Ds should ensure timely payment to contractors (normally within 30 calendar days upon acceptance of the deliverables) [SPR 515(a) and Appendix III(F) of the SPRs].

/ Facilitating measures

Facilitating measures to market players and assistance to procuring bureaux/departments

37. Pro-innovation procurement calls for not only a change in the mindset and procurement strategy, but also a better and up-to-date understanding of new service delivery options or technological developments in the market. These are outside the procurement system and require the concerted efforts of the relevant B/Ds.

38. In order to empower B/Ds to spearhead pro-innovation procurement, –

- (a) **GLD** will coordinate the publication of procurement plans of B/Ds at its dedicated web portal to provide a convenient first-stop for information on procurement opportunities. This will help promote greater awareness of government procurement and facilitate planning of prospective tenderers, including start-ups and SMEs;
- (b) the **Electrical and Mechanical Services Department (EMSD)** and **OGCIO** have agreed to act as innovation facilitators to, *inter alia*, help B/Ds identify suitable electrical and mechanical (E&M) and information technology (IT) solutions respectively. If the engagement of a technical expert outside the Government is necessary, B/Ds may approach EMSD or OGCIO for assistance in identifying relevant E&M and IT experts for advice on technological innovation;
- (c) **EMSD** and **OGCIO** will, through their respective “E&M InnoPortal” (<https://www.emsd.gov.hk/inno>) and the Smart Government Innovation Lab (to be launched in April 2019), help connect B/Ds with the relevant sectors to enable procurement with technological innovation;

/ (d)

- (d) **Innovation and Technology Bureau (ITB)/Efficiency Office (EffO)** will collaborate with relevant organisations to organise trade shows to showcase to B/Ds the innovative solutions available in the market;
- (e) **Commerce and Economic Development Bureau (CEDB)/EffO** have drawn up guidelines on the application of design thinking in government procurement. As proposed by CEDB and endorsed by SCIT, B/Ds are encouraged to apply design thinking – “a human centered approach to innovation” – as one of the means to help define appropriate user requirements and draw up tender documents;
- (f) B/Ds are encouraged to reach out to the market, particularly I&T suppliers and start-ups, before procurement. On market engagement, **ITB/EffO** have drawn up guidelines on how to engage the I&T sector specifically and the assistance available from relevant departments. With the assistance of ICAC, the Competition Commission and relevant B/Ds, **FSTB/GLD** have coordinated a checklist of “Dos” and “Don’ts” in market engagement for general reference by B/Ds; and
- (g) **GLD** and **ITB/EffO** will co-organise training and workshops on procurement with technological innovation. **GLD** may also assist in pre-tender briefings conducted by B/Ds as appropriate to help SMEs and start-ups familiarise with government procurement procedures.

Further details of the above can be found at **Annex D**.

/ **Transitional arrangement**

Transitional arrangement

39. While this Circular will take effect from 1 April 2019, B/Ds are encouraged to adopt the pro-innovation changes set out in paragraphs 13 – 30 before the effective date. If pro-innovation changes are introduced to tenders before the effective date, B/Ds are reminded to seek approvals from the relevant authorities for the use of marking schemes, restricted or single tendering and direct engagement etc. under the prevailing SPRs (i.e. before 1 April 2019). Tender boards/DTCs should give favourable consideration to the proposed pro-innovation changes covered in this Circular as far as possible.

Reporting requirement

40. GLD will invite reports from B/Ds on their pro-innovation procurement cases on a regular basis.

Trading Fund

41. This Circular applies to trading funds.

Enquiries

42. Enquiries on the following aspects may be directed to –

On policy and the SPRs –

	Contact numbers
FSTB	
Principal Assistant Secretary (Treasury)(E)	2810 2407
Assistant Secretary (Treasury)(E)1	2810 3755
Treasury Officer (E)1	2810 2213 2810 3771
GLD	
Chief Supplies Officer (Procurement Administration)	2231 5232

/ On the

*On the SMS Framework and **Annex B** of this Circular –*

	Contact numbers
FSTB	
Treasury Officer (Tender)2	2810 2518
Treasury Officer (Tender)3	2810 3818

*On single/restricted tendering for procurement of stores at **Annex C** of this Circular –*

	Contact numbers
GLD	
Chief Supplies Officer (Procurement Administration)	2231 5232

*On single/restricted tendering other than procurement of stores, direct engagement and **Annex C** of this Circular –*

	Contact numbers
FSTB	
Chief Executive Officer (Tender)	2810 3812
Treasury Officer (Tender)1	2810 2497

/ Enquiries

Enquiries on the facilitating measures and assistance to B/Ds set out in Annex D of this Circular –

	Contact numbers
Publication of procurement plans	
Chief Supplies Officer (Procurement Administration) / GLD	2231 5232
Innovation Facilitators	
Inno-office / EMSD	3757 6193 (or inno@emsd.gov.hk)
Senior Systems Manager (Governance and Resources)3 / OGCI0	3182 6731 (or smartlab@ogcio.gov.hk)
“E&M Inno Portal”	
Inno-office / EMSD	3757 6193 (or inno@emsd.gov.hk)
Trade shows	
Team 2, EffO	2165 7210
Design thinking	
Team 1, EffO	2165 7246
Market engagement with I&T sector	
Team 2, EffO	2165 7210
Training and workshops	
Chief Supplies Officer (Procurement Administration) / GLD	2231 5232
Team 2, EffO	2165 7210

James H. Lau Jr.
Secretary for Financial Services and the Treasury

Annex A to FC No. 2/2019

Key Revisions to the Stores and Procurement Regulations (SPRs)

Key Revisions	Relevant SPRs
<u>Chapter I</u> <ul style="list-style-type: none"> • New pro-innovation policy • Government procurement principles • Value for money re-defined 	<ul style="list-style-type: none">)) SPRs 106 – 109)
<u>Chapter IA</u> <ul style="list-style-type: none"> • Annual review of undertakings by officers involved in procurement • Avoiding and managing conflict of interests when engaging outside technical experts 	<ul style="list-style-type: none"> • SPR 187 • SPRs 197 – 198 and Appendix I(C)
<u>Chapter II</u> <ul style="list-style-type: none"> • Departmental limit increased to \$10 million • Use of marking schemes and setting essential requirements on tenderer's experience for procurements within the quotation limit • Email accepted as a form of written quotation • Quotation negotiations • Cancellation of quotation exercise 	<ul style="list-style-type: none"> • SPR 220(a) • SPRs 221-221A • SPRs 260, 280 and 295 • SPR 296 • SPR 297
<u>Chapter III</u> <ul style="list-style-type: none"> • Direct engagement of contractors/suppliers/service providers • Purchase of a prototype or first good or service may justify the use of restricted / single tendering • Approving authorities of restricted/single tendering and direct engagement • No misplaced tenders accepted during tender invitation 	<ul style="list-style-type: none"> • SPRs 300, 331 – 333 • SPR 325(a)(v) • SPRs 325(b) , 332 • SPR 340(e)

Key Revisions	Relevant SPRs
<ul style="list-style-type: none"> • Approving authority for the threshold of legal vetting for works contracts delegated to Permanent Secretary for Development (Works) • No essential requirement on tenderer's experience in general for non-works procurements • Encourage wider use of marking schemes and introduce the Standard Marking Scheme (SMS) Framework • Marking schemes of works contracts continue to be approved by relevant tender board 	<ul style="list-style-type: none"> • SPR 345(d) • SPR 350(a) • SPRs 350(h), 350(i) and Appendix III(G) • SPR 350(j)
<p><u>Chapter IV</u></p> <ul style="list-style-type: none"> • Technical weighting for assessment of consultancy proposal should normally be 60% – 70%. Marking schemes require approval from the relevant consultants selection board / committee. • The financial limit of the Departmental Consultants Selection Committee increased to \$10 million 	<ul style="list-style-type: none"> • SPR 427 • SPR 430(b)
<p><u>Chapter V</u></p> <ul style="list-style-type: none"> • Updated definition of “original contract value” in the context of variation of non-work contracts 	<ul style="list-style-type: none"> • SPR 520
<p><u>Appendix III(F)</u></p> <ul style="list-style-type: none"> • Encourage market research and engagement • Small and medium sized enterprises or start-ups friendly tender specifications 	<ul style="list-style-type: none"> • Paragraph 6(a) • Paragraphs 3(e) , 7(d) and 7(e)

Key Revisions	Relevant SPRs
<u>Appendix III(G)</u> <ul style="list-style-type: none"> • Approving authorities for exceptions to the SMS Framework • Approving authorities for the adoption of marking schemes in works tenders • Blanket approval for individual marking schemes in works and non-works procurement 	<ul style="list-style-type: none"> • Paragraphs 2 – 6 • Paragraphs 7 – 8 • Paragraph 9
<u>Appendix III(G)1</u> <ul style="list-style-type: none"> • Engagement of outside technical experts in government procurement 	
<u>Appendix III(I)</u> <ul style="list-style-type: none"> • Updated requirements for submission to Central Tender Board and subsidiary boards 	

Standard Marking Scheme Framework for Stores, Services and Revenue Contracts and Requirements in Drawing Up Marking Schemes

Introduction

To promote innovation¹ in government procurement, bureaux and departments (B/Ds) are encouraged to use marking schemes ("MS") more widely in tender evaluation. MS should be drawn up in a clear and objective manner to provide a level playing field for all bidders and positively encourage innovative suggestions.

Standard Marking Scheme Framework

2. The Standard Marking Scheme ("SMS") Framework is developed to facilitate B/Ds in formulating MS consistent with the above considerations and minimise the need for seeking prior approval from the relevant tender board/committee. This SMS Framework is applicable to all stores, services and revenue tenders, except for works contracts (including services contracts for construction and engineering works) and consultancy services for which separate guidelines apply.

Technical Weighting

3. In order to allow more room for innovation and non-price factors in tender assessment, following the SMS Framework, the technical weighting (vs. price weighting) should be **at least 50%** and can be **up to 70%**. Prior approval of the relevant tender board/committee must be sought with justifications if procuring B/Ds propose a technical weighting lower than 50% or higher than 70%. Notwithstanding this, to ensure adequate room for the inclusion of labour-related assessment criteria in the MS, the technical weighting for services contracts that rely heavily on the deployment of non-skilled workers ("non-skilled workers contracts") must not fall below 50%.

Criteria for Technical Assessment and Weighting Distribution

4. B/Ds can design their MS based on the Frameworks in paragraph 5 below (with further elaboration set out in Appendix I) to suit their specific needs. As a general rule, B/Ds should avoid including Section B in Framework 1 or Framework 2 as far as practicable as it may not be conducive to the participation of start-ups or small and medium-sized enterprises ("SMEs") in government procurement. **B/Ds should fully consider possibilities for adopting innovative suggestions, assess their potential benefits and allocate sufficient technical weightings in the marking schemes to facilitate that.** B/Ds should also ensure that specific aspects covered in one assessment criterion

¹ As defined under SPRs 109.

Annex B to FC No. 2/2019

should not be covered by other assessment criteria to avoid double marking. Specifically, for non-skilled workers contracts, labour benefit measures should not be accepted as innovative suggestions under Section A as the former serve a distinctly different policy objective and will attract marks in their own right under the assessment criteria on labour benefits.

5. Assuming a total mark of 100 for technical assessment, the distribution of marks for individual assessment criteria should follow the Frameworks below -

Framework 1: For Stores, Services and Revenue Contracts (excluding non-skilled workers contracts)

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks
Section A - Execution Plan (for services and revenue contracts) - Technical Aspects (for stores contracts)	70 – 100 (with at least 20% marks for innovative suggestions/elements, see Remark (1))
Section B - Experience, Qualification or Certification	0 – 15
Section C – Other Specific Criteria	0 – 15 (see Remark (2))

Framework 2: For Non-skilled Workers Contracts

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks
I. Labour Benefits	25 – 40 (see Remark (3))
II. Technical Attributes	
Section A – Execution Plan	30 – 75 (with at least 20% marks for innovative suggestions, see Remark(1))
Section B - Experience, Qualification or Certification	0 – 15
Section C – Other Specific Criteria	0 – 15 (see Remark (2))

Remarks:

- (1) A minimum of 20% of the total marks of Section A should be reserved for innovative suggestions / elements which may be suggested by tenderers under individual assessment criteria. *The assessment criteria for innovative suggestions adopted in different contracts within the same B/D should be standardised as appropriate.*
- (2) B/Ds may also accord marks to innovative suggestions / elements under this Section in Frameworks 1 and 2 as appropriate.
- (3) B/Ds must assign at least 25 marks to assessment criterion/criteria on “wages”. This, together with other labour benefits related criteria such as “working hours”, “number of demerits points”, etc. may normally account for up to 40 marks out of a total of 100. Further increase of marks for “wages” and other labour benefits related criteria is possible, upon approval of the relevant tender board/committee. *In devising the technical marks allocated to the assessment of tenderers’ proposed wages, it is important to pay due regard to financial prudence and value for money.*
- (4) If the total mark for technical assessment is more or less than 100, the permitted range of marks should be adjusted proportionally. For example, the permitted range for Execution Plan or Technical Aspects under Framework 1 will become 105-150 if the total mark for technical assessment is 150 instead of 100.

Commonly Used Technical Assessment Criteria

6. The assessment criteria that are commonly used in MS for stores and services tenders are at Appendix I for reference. *B/Ds may also make reference to the sample MS available on the CCGO Portal at <http://fb.host.ccgo.hksarg/spr/smsf.htm>.*

Passing Mark

7. Although a passing mark may serve as a benchmark for ascertaining the quality of a tenderer’s technical proposal, it can only be applied mechanically without any discretion once it is set. With a view to avoid disqualifying tenderers unnecessarily, passing mark requirements should be minimised. There shall be no passing mark for the whole of Sections B – C in Frameworks 1 and 2, the whole section for labour benefits assessment under Framework 2 or any individual assessment criteria under these items. No overall passing mark shall be allowed. B/Ds may set a passing mark for the whole of Section A or any individual assessment criteria under Section A (after excluding the marks for innovative suggestions / elements) if it is considered essential. However, since a stringent passing mark may screen out tenderers with good performance in most other aspects except for the attribute in question, thereby limiting Government’s choices, the passing mark, if any, shall not be more than 25% of the respective full mark of Section A or the individual

assessment criterion (excluding the marks reserved for innovative suggestions / elements). For example, if the full mark assigned for Section A is 80 in which 20 marks are reserved for innovative suggestions / elements, the passing mark for Section A should be no more than 15 (i.e. 25% of 60 marks).

Marking Standard

8. In technical assessment, there shall be no negative marks or marks exceeding the full mark given for any assessment criteria. All assessment criteria and marking guidelines must be clearly stated and made known to the tenderers in the tender documents. The marking guidelines should clearly explain on how marks will be given for each of the assessment criteria so as to facilitate the tenderers' preparation of bid and provide a consistent benchmark for tender assessment. B/Ds should review MS which have been used for previous tender exercises before adopting them for new contracts even if they may be similar in nature.

Deviations from SMS

9. Any deviation from the SMS Framework, including any non-compliance with the requirements set out in paragraphs 3 to 5 and 7 to 8 above, shall require the prior approval of the relevant tender board/committee. Justifications for the proposed deviations must be provided.

Invitation of Alternative Technical Proposal/Design

10. This SMS Framework is not applicable to tenders inviting alternative technical proposal/design for the whole or specific areas of the project. If B/Ds wish to invite alternative technical proposal/design from tenderers, they may draw up a suitable MS with reference to the SMS for works tenders and the "Three-Envelope System" adopted by the Housing Department. An outline of these approaches is at Appendix II for reference. Adoption of such non-standard MS requires prior approval from the relevant tender board/committee.

Other Requirements in Drawing Up MS

Essential Requirements

11. An essential requirement ("ER") is a requirement the non-compliance of which will render a tender non-conforming. To facilitate the participation of start-ups or SMEs in government tender

exercises, thereby encourage innovation in government procurement, B/Ds should avoid setting ERs on a tenderer's relevant experience, but may assess these aspects in the MS. For cases where a tenderer's relevant experience is considered absolutely necessary and must be set as an ER alongside the use of MS, B/Ds must seek the prior approval of the relevant tender board/committee.

Tender Specifications

12. B/Ds are encouraged to adopt output- or performance-based tender specifications. Over-specification in product requirements and over-prescription in the mode of service delivery may discourage innovative suggestions and should be avoided. Examples are provided at Appendix III for reference. More details are available at Appendix III(F) "Guidelines for Drawing up Tender Specifications" of the Stores and Procurement Regulations (SPRs).

Keeping MS simple

13. Whilst encouraging innovative suggestions, it is equally important that we keep MS simple to render government procurement as user-friendly as possible to tenderers. With this in mind, for contracts with a value below \$100 million, the MS (excluding appendices) should comprise not more than ten assessment criteria/sub-criteria and should contain within ten pages. For contracts exceeding \$100 million in value (hence usually with more complex requirements), no more than 20 assessment criteria/sub-criteria within 20 pages are allowed.

14. B/Ds should also consider imposing a page limit on the length of tender returns both to contain the cost of participation for the tenderers and save time in tender evaluation as follows -

Nature of Tender	Page Limits on Tender Returns
Non-complicated, standard or low-valued (below \$50 million in this context) cases	≤ 50 pages
Complicated cases or cases involving higher value	≤ 100 pages
Highly complicated cases	≤ 200 pages

(Note: pages in A4 size)

15. We would defer to procuring B/Ds to decide whether to impose an upper limit for tender returns and if so, what that page limit should be and how the pages exceeding the specified page limit would be handled. The exact page limit to be set should be **commensurate with** the overall complexity of the tender concerned. B/Ds may deduct marks from the total marks for technical

assessment for each excessive page (subject to a specified maximum of marks to be deducted). For example, the page limit for the Execution Plan/Technical Aspects (excluding related annexes and documentary proof) is set at 80 pages in A4 size paper for text and 20 pages in A3 size for drawing (with margin not less than 25mm and character font size not less than 12). Assuming that the maximum mark for Execution Plan/Technical Aspect is 80 out of the total mark of 100 and pages exceeding the specified page limit will be considered in the tender evaluation, procuring B/Ds may deduct 0.5 mark from the total mark of 100 for each excessive page, subject to a maximum of 8 marks (i.e. 10% of 80 marks).

Rounding Rule

16. If rounding rule is required, calculations should be rounded to the nearest two decimal places. In other words, figures with value at the third decimal place larger than or equal to 0.005 will be rounded up by adding 0.01 to the figures and curtailing the third decimal place onward, whereas figures with value at the third decimal place below 0.005 will be rounded down by curtailing the third decimal place onward without changing the value at the second decimal place.

Tender Evaluation and Recommendation for Contract Award

17. Normally, the tenderer who obtains the highest overall score after technical and price assessment should be awarded the contract.

18. Following the decision of the Policy Committee, for non-skilled workers contracts, if two or more tenderers obtain the same highest overall score, the contract should be awarded to the one with the highest score in technical assessment. However, to cater for individual B/Ds' own operational requirements and for risk management purpose, Controlling Officer (or directorate officer(s) authorised by him) may approve the imposition of restriction on the maximum number of a particular type of contracts (contracts of the same nature within the same/in different geographical region(s)) to be undertaken by a single contractor through the same tender exercise or different tender exercises. If the restriction rule is imposed on a non-skilled worker contract, the Controlling Officer (or directorate officer(s) authorised by him) may implement the above acceptance rule with modification to preserve the restriction rule as considered justified.

19. In any case, if a restriction on the maximum number of contracts each contractor may undertake is to be imposed, B/Ds are reminded to observe SFST's memo of 8 February 2002 regarding "Selection of combination of tenders" and memo of 18 November 2004 regarding "Restriction on the Maximum Number of Contracts to be Undertaken by the Same Contractor" when

setting the relevant restriction rule and rule for selection of tender combination. The restriction rules must also be clearly stated and made known to the tenderers in the tender documents.

Enquiries

20. For enquiries of this Annex, please contact Treasury Officer (~~Treasury Tender~~)² at 2810 2518 or Treasury Officer (~~Treasury Tender~~)³ at 2810 3818.

Financial Services and the Treasury Bureau (Treasury Branch)

Assessment Criteria for Standard Marking Scheme (“SMS”)

A. For Services and Revenue Contracts

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks
I. Labour Benefits	25 – 40	This Section is only applicable to services contracts that rely heavily on the deployment of non-skilled workers (e.g. cleaners, toilet attendants, security guards, workmen, etc.)(“non-skilled workers contracts”). Unless otherwise agreed by the relevant tender board/committee, assessment criteria 1 and 2 in this Section should be included in the MS in accordance with SPR Appendix III(G). Assessment criterion 3 in this Section is optional.
1. Proposed monthly wage for non-skilled workers to be employed under the Contract	Not less than 25	<p>Marking of this assessment criterion may be based on the following:</p> <p>A zero mark shall be given to a tender where the monthly wages for respective types of non-skilled workers as proposed is below or equivalent to the monthly wages of the prevailing SMW calculated on the basis of 31 days (27 maximum number of normal working days plus 4 paid rest days) per month and 8 normal hours of work per day.</p> <p>Marks given to each tender should be determined by the following formula –</p> $\text{Full mark} \times \frac{P - S}{H - S}$ <p>P Proposed monthly wages for respective types of non-skilled workers of the tender being considered.</p> <p>=</p> <p>H Highest proposed monthly wages for respective types of non-skilled workers among all conforming tenders</p> <p>=</p> <p>S The prevailing SMW monthly wages calculated on the basis of 31 days per month and 8 normal hours of work per day.</p> <p>=</p> <p>An example of calculating the marks of a tenderer’s proposed monthly wages for non-skilled workers is illustrated below –</p> $\begin{array}{lcl} P & = & \$9,500 \\ H & = & \$11,000 \\ S & = & \$8,556 \end{array}$ $\begin{array}{lcl} \text{Marks given} & = & 25 \times \frac{\$9,500 - \$8,556}{\$11,000 - \$8,556} \\ & = & 9.66 \text{ (Marks)} \end{array}$ <p>If the monthly wage for respective types of non-skilled workers proposed in a tender is missing or is less than the prevailing monthly wages of SMW on a 31-day-per-month basis, the tender shall be evaluated with the proposed monthly wages deemed to be the prevailing monthly wage of SMW on a 31-day-per-month basis for the purpose of tender evaluation.</p> <p><u>Points to note –</u></p> <p>No exceptional approval will be given for B/Ds to assign less than 25 out of 100 total technical marks for this assessment criterion.</p>

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
2. Proposed daily maximum working hours for non-skilled workers to be employed under the Contract		<p>Marks may be given as shown in the following <u>examples</u> –</p> <p><u>Example 1:</u> The tender with the lowest proposed daily maximum working hours for the respective types of non-skilled workers will be given the full mark, while the marks given to the other tenders will be determined by the following formula –</p> $\text{Full mark} \times \frac{\text{Lowest proposed maximum working hours for respective types of non-skilled workers among all conforming tenders}}{\text{Proposed daily maximum working hours for respective types of non-skilled workers of the tender being considered}}$ <p>For instance, the full mark assigned for “Proposed daily maximum working hours for cleaner” is 10. Assuming that there are 3 conforming tenders and the proposed daily maximum working hours offered by Tenderers A, B and C are 6 hours, 8 hours and 10 hours respectively, the marks obtained by Tenderers A, B and C will be 10, 7.5 and 6 respectively.</p> <p><u>Example 2:</u> 100% – Proposed daily maximum working hours for the respective types of non-skilled workers are () hours excluding meal break (i.e. net total) or less. 0% – Proposed daily maximum working hours for the respective types of non-skilled workers are more than () hours excluding meal break (i.e. net total).</p> <p>The procuring B/D may set the number of hours in bracket having regard to the work pattern of non-skilled workers to be employed under the Contract and/or the operational considerations of the procuring B/D.</p>
<p>3. (a) Demerit points obtained from one or more government departments for non-compliance with contractual obligations in respect of wages, daily maximum working hours, signing of standard employment contracts with wage payment; <u>or</u></p> <p>(b) Record of default notices issued by the procuring B/D against breaches of the standard employment contract (<u>Note:</u> This may be applicable to contracts of procuring B/Ds with its own departmental system for record of default notices against breaches of the standard employment contract.)</p> <p>within a certain period (e.g. 36 months) immediately preceding the TCD</p>		<p>Marks may be given as follows –</p> <p>100% – No Demerit Point/default notice 50% – One (1) Demerit Point/[1-3] default notices 0% – Two (2) Demerit Points/[4 or more] default notices</p> <p><u>Points to note –</u> (a) The number of default notices in square brackets above are for illustration only and should be modified having regard to the operational considerations of the procuring B/D. (b) If the tenderer is a partnership, the Demerit Points/default notices issued to any participant of the partnership shall be counted. (c) Demerit Points under appeal shall be counted for the purpose of tender evaluation.</p>
II. Technical Attributes		
A. Execution Plan	<p>30 – 75*</p> <p>70 – 100#</p>	<p>* for non-skilled workers contracts # for contracts excluding non-skilled workers contracts</p>
1. The Execution Plan refers to the submission of a tenderer that contains detailed proposals (including solutions) of how the tenderer		A procuring B/D should tailor the marking guidelines to reflect its priorities, according more marks to aspects of which are considered more important

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks														
<p>will carry out the Services or perform the Contract and shall form part of the Contract. It may include one or more of the following components or their variances as assessment criteria. Each component may be further divided into sub-components as necessary –</p> <p>I. Management and/or Operation Plan sets out the way in meeting the performance requirements for the Services;</p> <p>II. Resources Plan sets out key staff, materials, equipment, tools, vehicles and technique, etc. for the implementation of the submitted work programme/work plan design;</p> <p>III. Organisation and/or Supervision Plan sets out the approach of and mechanism for staff supervision, training, appraisal, etc.;</p> <p>IV. Risk Management and/or Contingency Plan caters for the handling of emergency situations, sudden outbreak of incidents, accidents, complaints, etc.;</p> <p>V. Quality Assurance Plan sets out the approach and mechanism to ensure service quality and remedy defects in performing the Services; and</p> <p>VI. Transition Plan sets out proposed arrangements for the pre-commencement stage and upon expiry of the Contract.</p> <p>VII. Compliance Plan such as initiatives and measures for ensuring compliance with related legislation (e.g. Occupational Safety and Health Ordinance, Air Pollution Control Ordinance) and other related regulations, standards, guidelines; (<u>Note</u> : This plan may be applicable to contracts with high risk of safety, environmental or compliance with related Ordinances (e.g. security services, waste management services, elderly home services, etc.)</p> <p>VIII. Marketing Plan for reaching out to service targets and for optimizing the usage of the Services; (<u>Note</u> : This plan may be applicable to contracts involving recruitment of service beneficiaries (e.g. training services).)</p> <p>IX. Maintenance Plan for ensuring uninterrupted availability of infrastructure/facilities and Services throughout the Contract period; and (<u>Note</u> : This plan may be applicable to contracts involving maintenance responsibility of infrastructure, facilities, etc. (e.g. management, operation and maintenance of tunnels, waste treatment plant, etc.))</p> <p>X. Other specific plans to meet special service needs, e.g. publicity plan, technical solution for the implementation of IT systems.</p>		<p>for/relevant to achieving the desired outcome.</p> <p>Marks for each component of the Execution Plan should be given in accordance with a marking scale/yardstick. Below is an example of a 5-grade scale -</p> <p>100% - The proposed plan is practical with detailed information for all of the required items.</p> <p>75% - The proposed plan is practical with detailed information for more than three fourth of the required items and brief information for the remaining required items.</p> <p>50% - The proposed plan is practical with detailed information for more than half of the required items and brief information for the remaining required items.</p> <p>25% - The proposed plan is practical with brief information covering all of the required items.</p> <p>0% - The proposed plan is impractical or fails to provide information on any of the required items.</p> <p>At least 20% of the full mark of the whole Section A should be reserved for assessing innovative suggestions provided by tenderers in their proposals. For example, if the full mark of Section A is 60, the marks reserved for assessing innovative proposals should be not less than 12. A procuring B/D is free to distribute these marks among the applicable individual assessment criteria. Below is <u>an example for illustration purpose</u> only (assuming 12 marks for innovation):</p> <table> <tr> <th>Assessment Criteria</th><th>Marks for individual criteria (*marks for innovation)</th><th>Total Marks for Section A</th></tr> <tr> <td>Management and Operation Plan</td><td>20 + 7*</td><td rowspan="5">60 (a minimum of 12 for innovation)</td></tr> <tr> <td>Resources Plan</td><td>15 + 3*</td></tr> <tr> <td>Quality Assurance Plan</td><td>8 + 2*</td></tr> <tr> <td>Transition Plan</td><td>5</td></tr> <tr> <td>Total</td><td>(i.e. 48 + 12*)</td></tr> </table> <p>If the procuring B/D wishes to set a passing mark for Section A, the passing mark in the above case should be no more than 12 (i.e. 25% of 48).</p> <p><u>Points to note</u> -</p> <p>(a) To keep government tendering simple, the number of components (assessment criteria) under the Execution Plan should be kept to the absolute minimum. The tender documents should specify clearly the details that a tenderer is expected to provide under each component (e.g. sub-contracting arrangement under the Management and Operation Plan) to facilitate the preparation of quality submissions.</p> <p>(b) A procuring B/D should provide proforma/schedules in the tender document to facilitate tenderers' submission of individual components under the Execution Plan.</p>	Assessment Criteria	Marks for individual criteria (*marks for innovation)	Total Marks for Section A	Management and Operation Plan	20 + 7*	60 (a minimum of 12 for innovation)	Resources Plan	15 + 3*	Quality Assurance Plan	8 + 2*	Transition Plan	5	Total	(i.e. 48 + 12*)
Assessment Criteria	Marks for individual criteria (*marks for innovation)	Total Marks for Section A														
Management and Operation Plan	20 + 7*	60 (a minimum of 12 for innovation)														
Resources Plan	15 + 3*															
Quality Assurance Plan	8 + 2*															
Transition Plan	5															
Total	(i.e. 48 + 12*)															
<p>2. Tenderers should be encouraged to make innovative suggestions under applicable components of the proposed Execution Plan. Examples may include suggestions on innovative application of</p>		<p>Subject to reserving at least 20% of the full mark of Section A, a procuring B/D may accord marks reserved for innovative suggestions in different ways to reflect its own operational needs or priorities. Below is <u>an example for</u></p>														

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
<p>technology (e.g. automation, computerization and mechanization), streamlining of working/operation procedures, better management of resources (e.g. manpower, tools, materials and time), facilitation of research and development ("R&D") and minimising life cycle costs, etc.</p> <p>A procuring B/D is also encouraged to allow room for tenderers to make innovative suggestions which are not directly relevant to the procurement/tender requirements but would bring about positive values/benefits to the Government or the public at large.</p> <p>All innovative and practicable suggestions included under different components of the Execution Plan of the successful tenderer shall form part of the Contract.</p>		<p><u>illustration purpose only.</u></p> <p>A. <u>Type I Innovative Suggestion</u></p> <p>Marks for innovation are assigned to innovative suggestions that are directly relevant to the services being procured and can enhance service delivery. Innovative suggestions in each applicable component of the Execution Plan should be assessed <u>in comparison to the conventional mode of service delivery adopted by the procuring B/D.</u> Only innovative suggestions that are considered effective and practicable in improving service delivery or operations of the procuring B/D should be given marks for innovation. Their benefits/positive values may be reflected in terms of:</p> <ul style="list-style-type: none"> • economical use of resources, e.g. electricity, water, paper; • saving of manpower resources; • higher operational efficiency / performance reliability; • earlier delivery schedule / project implementation; • shortening of gearing-up period; • higher security standard; • better service quality / durability of the product or system; • improved or greater flexibility to adapt to operational changes; • enhanced compatibility with other systems; • easier maintenance; • boosting of staff morale/user satisfaction/service utilization; and/or • any other benefits which are considered relevant to the procurement by the procuring B/D. <p>(These are examples only, and not meant to be exhaustive.)</p> <p>Marks may be given to innovative suggestions as follows:</p> <p>100% – The proposed plan contains 5 or more practicable innovative suggestions</p> <p>66% – The proposed plan contains 3 to 4 practicable innovative suggestions</p> <p>33% – The proposed plan contains 1 to 2 practicable innovative suggestions</p> <p>0% – The proposed plan does not contain any innovative suggestions</p> <p>B. <u>Type II Innovative Suggestion</u></p> <p>The procuring B/D is also encouraged to recognise innovative suggestions which may not be directly relevant to the services being procured, but which can bring about positive values/benefits to the Government or public at large. Examples of such positive values or benefits may include –</p> <ul style="list-style-type: none"> • Technological development [e.g. application/adoption of new technology/inventions, contribution to innovation and technology ("I&T") development, innovative application of existing/matured technology, or contribution to the development of Smart City] • Economic development [e.g. contribution to sustainable development of an industry/a sector]

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
		<ul style="list-style-type: none"> • Social well-being [e.g. fosters a caring society (such as the employment of persons with disabilities), or contributes to heritage conservation] • Environmental protection (e.g. use of green materials/products, or promotes waste reduction); and/or • Other positive values and benefits to the Government/public <p>The above are examples only, and are not meant to be exhaustive. As innovative suggestions can be something totally beyond a procuring B/D's imagination, a procuring B/D may choose not to pre-determine and set out in the MS the positive values that an innovative suggestion must bring about.</p> <p>Where the procuring B/D is prepared to give recognition to such innovative suggestions, marks may be given as follows:</p> <p>100% – The proposed plan contains 3 or more practicable innovative suggestion(s) that contribute(s) to at least three positive values</p> <p>66% – The proposed plan contains 2 practicable innovative suggestions that contribute(s) to at least two positive values</p> <p>33% – The proposed plan contains 1 practicable innovative suggestions s that contribute(s) to at least one positive value</p> <p>0% – The proposed plan does not contain any innovative suggestions</p> <p><u>Points to note -</u></p> <p>(a) Innovation may not necessarily be technology-related. It can be any suggestion not conventionally adopted or even readily envisaged by the procuring B/D that can create or bring about positive value to the Government or the public at large.</p> <p>(b) The procuring B/D should be receptive to any innovative suggestions and should be prepared to appraise/assess any unexpected suggestion. The procuring B/D is encouraged to fully consider possibilities for adopting innovative suggestions, assess their potential benefits, and allocate sufficient technical weightings in the MS to facilitate that.</p> <p>(c) For assessment of an innovative suggestion, a procuring B/D may consider the following factors:</p> <ul style="list-style-type: none"> • the effectiveness of the innovative suggestion in achieving any of the relevant benefits; • the feasibility and practicability of the suggestions; • the reliability/sustainability of the suggestions; and • the consistency where practicable in the assessment of innovative suggestions submitted by tenderers in different contracts within the same B/D. <p>[Note: A procuring B/D should lay down in the MS the guidelines and provide examples of the types of information required for demonstrating the effectiveness and practicability of the innovative suggestions. A procuring B/D may request tenderers to submit supporting documents or provide a demonstration/proof-of-concept to prove the feasibility and practical effects of their</p>

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
		<p>suggestions where appropriate. Marks should only be given to those proposed innovative suggestions that the tenderer would be capable of and responsible for implementation.]</p> <p>(d) Overlapping with other specific criteria in the MS shall be avoided. Specifically, for non-skilled workers contracts, labour benefit measures should not be accepted as innovative suggestions under Section A as the former serve a distinctly different policy objective and will attract marks in their own right under the assessment criteria on labour benefits.</p> <p>(e) The procuring B/D should remind tenderers to highlight their innovative suggestions in their submissions to facilitate evaluation.</p> <p>(f) If a procuring B/D chooses to invite both types of innovative suggestions, marks distributed to Type I and Type II innovative suggestions should be in a proportionate manner, i.e. a higher weighting will normally be given to Type I innovative suggestions.</p> <p>(g) The SMS Framework does not prohibit a procuring B/D from accepting an innovative suggestion both as Type I and Type II suggestions and scoring it twice or scoring an innovative suggestion more than once within the same type. However, if the double-scoring formulation is adopted and marks are given to an innovative suggestion more than once, the justifications must be articulated and recorded clearly in the tender report.</p>
B. Experience, Qualification or Certification	0 – 15	<p><u>Points to note –</u></p> <p>(a) To encourage the participation of start-ups and SMEs in government tendering exercises, the marking guidelines for assessing tenderers' experience or certification should not be set too prohibitive. All the listed items are optional and for illustration purpose.</p> <p>(b) Procuring B/Ds should provide proforma/schedules in the tender document to facilitate tenderers' submission of experience claims.</p>
1. Relevant experience of the Tenderer [or its sub-contractor(s)] within a certain period immediately preceding the original Tender Closing Date ("TCD") [in a particular aspect]		<p>Marks may be given according to the duration of tenderer's experience. An <u>example</u> is provided as follows –</p> <p>100% – ≥ 5 months/years 80% – ≥ 4 – <5 months/years 60% – ≥ 3 – <4 months/years 40% – ≥ 2 – <3 months/years 20% – ≥ 1 – <2 months/years 0% – ≥ <1 month/year</p> <p><u>Points to note –</u></p> <p>(a) Experience can be quantified as number of years of experience/total completed contract value/number of completed contracts with a value exceeding the specified amount within that certain period immediately preceding the original TCD. For example, tenderer's experience in the provision of facility management services for Business Premises of 10 000m² or above in Gross Floor Area in Hong Kong in the past ten years preceding the original TCD.</p> <p>(b) For the purpose of counting a tenderer's years of experience, the overlapping period under different contracts of the tenderer should not be counted because the counting of overlapping experience will give an advantage to those large companies holding a number of the relevant contracts concurrently.</p>

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
		<p>(c) If joint ventures (JVs) are not common in the market for the types of services under acquisition, there is no need to specify complicated rules for counting a JV tenderer's experience. If a procuring B/D decides to accept JVs in its tender, it should specify clearly and illustrate with examples in the marking scheme how the experience of a JV tenderer will be counted. For the sake of fairness for both JV and non-JV tenderers, the experience of a JV tenderer shall be the weighted average of each participant or shareholder in the JV based on their respective percentages of participation / shares of work by value. For example, if contractor A has 3 years of relevant experience and contractor B has 2 years of relevant experience, and then if A and B form a JV and their shares of work by value are 60/40, the JV will be considered as having $(3 \times 0.6) + (2 \times 0.4) = 2.6$ years of relevant experience.</p> <p>(d) If relevant local experience is to be specifically considered, there must be justifications to support that it is essential for the satisfactory completion of the project and not intended to discriminate against tenderers based outside Hong Kong. For tenders subject to the Agreement on Government Procurement of the World Trade Organization (WTO GPA), the procuring B/D must consult the International Law Division of the Department of Justice in this regard.</p>
2. Qualification and experience of key personnel		<p>Marks in respect of key personnel's experience may be given with reference to the example for assessment criterion 1 in this Section above.</p> <p>For certifications/qualification of key personnel, an <u>example</u> for giving marks is provided below:</p> <p>100% – holds more than two recognised certification/qualification 60% – holds two recognised certification/qualification 20% – holds one recognised certification/qualification 0% – holds none of the recognised certification/qualification</p> <p><u>Points to note</u> –</p> <p>(a) A procuring B/D is required to specify clearly in the tender document the certification/qualification requirements.</p> <p>(b) The number of key personnel to be assessed should be kept to the absolute minimum.</p>
3. Valid and relevant ISO and OHSAS certifications		<p>An <u>example</u> of how marks may be given is provided below –</p> <p>100% - Accredited to ISO [9001], ISO [14001] and OHSAS [18001] and supported with documentary proof of all certificates which are valid as at the original TCD.</p> <p>66% - Accredited to any two of ISO [9001], ISO [14001] or OHSAS [18001] and supported with documentary proof of all certificates which are valid as at the original TCD.</p> <p>33% - Accredited to any one of ISO [9001], ISO [14001] or OHSAS [18001] and supported with documentary proof of the certificate which is valid as at the original TCD.</p> <p>0% - Not accredited to any of ISO [9001], ISO [14001] or OHSAS [18001] as at the original TCD or failed to provide valid documentary proof.</p> <p><u>Points to note</u> –</p>

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
		The listed ISO/OHSAS certifications in square brackets above are for illustration only and should be modified to suit the requirements of the procuring B/D.
4. Other specific experience to meet the requirement of the Service(s) being procured		By way of illustration, in relation to a contract for the provision of training services, the procuring B/D may wish to consider the aggregate number of person trained by the Tenderer in a relevant field/discipline immediately prior to the TCD.
C. Other Specific Criteria A procuring B/D may adopt other assessment criteria not covered above to suit its specific procurement needs. Examples of such assessment criteria may include -	0 – 15	<u>Points to note</u> – (a) A procuring B/D should consider seeking endorsement of its policy bureau as appropriate in adopting technical assessment criteria which are novel or uncommon. (b) Where appropriate, a procuring B/D may accord marks to innovative suggestions under assessment criteria of this Section.
1. Record of performance/performance rating in similar contracts of the procuring B/D over a certain period immediately preceding the TCD		An <u>example</u> of how marks may be given is provided below – A mark of 3, 2, 1 and 0 will be accorded to the rating of A, B, C and D of the monthly performance reports of the procuring B/D's contractors respectively: the overall performance rating of a contractor of the procuring B/D will be the total marks of all its monthly performance reports within the period of assessment (e.g. 36 months immediately preceding the month of the TCD) divided by the number of reports. The overall rating will be rounded to the nearest two decimal places. Assuming that the full mark of this assessment criterion is 15, the overall performance rating will be multiplied by the Unit Marks of 5 to obtain the marks scored by a tenderer with records of performance in undertaking the procuring B/D's contracts for this assessment criterion. Tenderers with no available record of performance in undertaking the procuring B/D's contracts in the assessment period immediately preceding the month of TCD shall be awarded with the average (i.e. rounded to the nearest two decimal places) of the mark scored by all other tenderers who have met all the essential requirements and with available records of performance in the procuring B/D. <u>Points to note</u> – This assessment criterion may be applicable where a procuring B/D maintains its own system of performance records.
2. Number of convictions under the relevant legislation/warning letters served due to non-compliance in a certain aspect		<u>Examples</u> may include – (a) Number of convictions under the environmental offences within a specified period immediately before the TCD. (b) Number of warning letters issued to the Tenderer by the Licensing Office of Residential Care Homes for the Elderly and/or the Department of Health under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) or the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) during a specified period immediately before the TCD. An <u>example</u> of how marks may be given is provided below – 100% – No conviction record/warning letter

<u>Assessment Criteria</u>	<u>Permitted Range of Marks out of 100 Total Marks</u>	<u>Marking Guidelines/Examples/Remarks</u>
		<p>50% – [1-2] conviction records/[1] warning letter</p> <p>0% – [3 or more] conviction records/[2 or more] warning letters</p> <p><u>Points to note</u> –</p> <p>For the avoidance of doubt, tenderers which are new contractors to the procuring B/D and do not have any conviction record or warning letter received should be given the full mark.</p>
3. Minimum monthly wage rate committed for a certain type of staff (<u>Note</u> : This assessment criterion has been used in the MS for the supply of IT staff and Contract Home.)		<p><u>Points to note</u> –</p> <p>The procuring B/D may make reference to the proposed marking guidelines in assessment criterion 1 of “I. Labour Benefits”, with the monthly wages of the Statutory Minimum Wage (“SMW”) in the formula replaced by a “reference monthly wages” proposed by the procuring B/D.</p>
4. Maximum number of working hours for a shift (excluding meal break) committed for a certain type of staff (<u>Note</u> : This assessment criterion has been used in the MS for Contract Home.)		<p><u>Points to note</u> –</p> <p>The procuring B/D may make reference to the proposed marking guidelines in assessment criterion 2 of “I. Labour Benefits”.</p>
5. Average Monthly Basic Salaries for the Designated Outgoing Operator's Staff (“DOOS”) for the First Contract Year (<u>Note</u> : This assessment criterion has been used in the MS for the management, operation and maintenance of government tunnels and control areas.)		
6. Other Employment Terms and Conditions for DOOS (<u>Note</u> : This assessment criterion has been used in the MS for the management, operation and maintenance of government tunnels and control areas.)		

Assessment Criteria for Standard Marking Scheme (“SMS”)

B. For Stores Contracts

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks
A. Technical Aspect	70 – 100	
<p>1. Technical aspect of the product may include one or more of the following components or their variances as assessment criteria. Each component may be further divided into sub-components as necessary –</p> <p>I. Functional Aspects e.g. (a) Detection capability (b) Operation mode (c) Safety features, such as warning light and emergency stop button (d) Backup battery (e) Protective features, such as waterproof, weatherproof, shock resistance, solar radiation resistance and corrosion resistance (f) Processing time, such as start-up/warm-up time, response time and charge-up time</p> <p>II. Operational Aspects e.g. (a) Resolution (b) View angle (c) Continuous operation (g) Remote control</p> <p>III. Environmental Aspects e.g. (a) Emission level of pollutants (b) Concentration value of hazardous substances (c) Certification of energy saving (d) Noise level (h) Environmentally-friendly packing materials</p>		<p>A procuring B/D should tailor the marking guidelines to reflect its priorities, according more marks to aspects of which are considered more important for/relevant to achieving the desired outcome.</p> <p>Marks for each component of the Technical Aspect should be given in accordance with a marking scale/yardstick</p> <p><u>Examples</u> of how marks may be given are provided below –</p> <p>Functional/Operational/Environmental Aspects e.g. The product shall have at least <2> listed protective features.</p> <p>100% - The proposed product has >8 8 or more listed protective features</p> <p>60% - The proposed product has >6 6 or 7 listed protective features</p> <p>20% - The proposed product has >4 4 or 5 listed protective features</p> <p>0% - The proposed product has <2 2 or 3 listed protective features</p> <p>e.g. The view angle of the proposed product shall be at least <180 degrees>.</p> <p>100% - View angle of the proposed product is ≥ 270 degrees</p> <p>60% - View angle of the proposed product is ≥ 240 - < 270 degrees</p> <p>20% - View angle of the proposed product > 180 - < 240 degrees</p> <p>0% - View angle of the product is <180 degrees></p> <p>e.g. The specified desirable features of environmentally-friendly packing materials may include: (i) a minimum of 50% recycled content with at least 20% of post-consumer fibre by weight or is originated from sustainably managed forest which is certified by international recognized standard; (ii) surfactant used in pulp/paper production, if necessary, should be degradable; (iii) should not be formulated or manufactured with optical brighteners or florescent whitening agents, (iv) colorants (pigments or dyes) containing mercury, lead, cadmium or hexavalent chromium compounds as constituents should not be used; and (v) should not be manufactured with the use of elemental chorine and halogenated bleaching agents that produce elemental halogens in-situ at any stage in the production/processing of fibre.</p> <p>100% - The proposed product meets four or more desirable features</p> <p>50% - The proposed product meets one to three desirable features</p> <p>0% - The proposed product does not meet any desirable features</p>

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks															
		<p>At least 20% of the full mark of the whole Section A should be reserved for assessing innovative suggestions provided by tenderers in their proposals. For example, if the full mark of Section A is 80, the marks reserved for assessing innovative suggestions should be no less than 16 as <u>illustrated below</u> (assuming 16 marks for innovation):</p> <table><tr><th>Assessment Criteria</th><th>Marks for individual criteria (*marks for innovation)</th><th>Total Marks for Section A</th></tr><tr><td>A.1.I Functional Aspects</td><td>22</td><td rowspan="4">80 (a minimum of 16 for innovation)</td></tr><tr><td>A.1.II Operational Aspects</td><td>22</td></tr><tr><td>A.1.III Environmental Aspects</td><td>20</td></tr><tr><td>A.2. Innovative Elements</td><td>16*</td></tr><tr><td>Total</td><td>(i.e. 64 + 16*)</td><td></td></tr></table> <p>If the procuring B/D wishes to set a passing mark for Section A, the passing mark in the above case should be no more than 16 (i.e. 25% of 64 marks).</p> <p><u>Points to note -</u></p> <p>A procuring B/D should provide proforma/schedules in the tender document to facilitate tenderers' submission of individual components under the Technical Aspect.</p>	Assessment Criteria	Marks for individual criteria (*marks for innovation)	Total Marks for Section A	A.1.I Functional Aspects	22	80 (a minimum of 16 for innovation)	A.1.II Operational Aspects	22	A.1.III Environmental Aspects	20	A.2. Innovative Elements	16*	Total	(i.e. 64 + 16*)	
Assessment Criteria	Marks for individual criteria (*marks for innovation)	Total Marks for Section A															
A.1.I Functional Aspects	22	80 (a minimum of 16 for innovation)															
A.1.II Operational Aspects	22																
A.1.III Environmental Aspects	20																
A.2. Innovative Elements	16*																
Total	(i.e. 64 + 16*)																
<p>2. Innovative Elements Suggestions</p> <p>Tenderers should be encouraged to include effective and practicable innovative elements suggestions which are directly relevant to the procurement and would bring improvement / benefit to the Government (e.g. easier maintenance, enhance compatibility with other equipment/systems, improve user satisfaction) for the Technical Aspect of the product under procurement.</p> <p>A procuring B/D is also encouraged to allow room for tenderers to make innovative suggestions which are not directly relevant to the procurement/tender requirements but would bring about positive values/benefits to the Government or the public at large.</p> <p>All innovative suggestions included for the Technical Aspect of the successful tenderer shall form part of the Contract.</p>		<p>Subject to reserving at least 20% of the full mark of Section A, a procuring B/D may accord marks reserved for innovative suggestions in different ways to reflect its own operational needs or priorities. Below is <u>an example for illustration purpose only</u>.</p> <p>A. Type I Innovative Suggestion</p> <p>A procuring B/D may conduct an overall appraisal of the number of effective and practicable innovative suggestions directly related to the performance of the contract and resulting in value-added elements of a tenderer's proposed innovative solution in terms of:</p> <ul style="list-style-type: none">• economical use of resources, e.g. electricity, water, paper;• saving of manpower resources;• higher operational efficiency / performance reliability;• higher security standard;• better service quality / durability of the product or system;• improved or greater flexibility to adapt to operational changes;• enhanced compatibility with other systems;• easier maintenance; and or• boosting of user satisfaction/service. <p>(These are examples only, and not meant to be exhaustive.)</p> <p>Marks may be given to effective and practicable innovative value-added elements suggestions as follows:</p> <p>100% - More than two effective and practicable innovative suggestions value-added elements</p> <p>66% - Two effective and practicable innovative suggestions value-added elements</p> <p>33% - One effective and practicable innovative suggestion value-added element</p> <p>0% - Does not contain any effective and practicable innovative suggestions value-added elements</p> <p><The scale of marks is to be determined and filled in by B/Ds.></p>															

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks
		<p>B. Type II Innovative Suggestion</p> <p>The procuring B/D is also encouraged to recognise innovative suggestions which may not be directly relevant to the product being procured, but which can bring about positive values/benefits to the Government or public at large. Examples of such positive values or benefits may include –</p> <ul style="list-style-type: none">• Technological development [e.g. application/adoption of new technology/inventions, contribution to innovation and technology ("I&T") development, innovative application of existing/matured technology, or contribution to the development of Smart City]• Economic development [e.g. contribution to sustainable development of an industry/a sector]• Social well-being [e.g. fosters a caring society (such as the employment of persons with disabilities), or contributes to heritage conservation]• Environmental protection [e.g. use of green materials/products, or promotes waste reduction]• Other positive values and benefits to the Government/public <p>The above are examples only, and are not meant to be exhaustive. As innovative suggestions can be something totally beyond a procuring B/D's imagination, a procuring B/D may choose not to pre-determine and set out in the MS the positive values that an innovative suggestion must bring about.</p> <p>Where the procuring B/D is prepared to give recognition to such innovative suggestions, marks may be given as follows:</p> <p>100% – The offer contains 3 or more effective and practicable innovative suggestion(s) that contribute(s) to at least three positive values</p> <p>66% – The offer contains 2 effective and practicable innovative suggestions that contribute(s) to at least two positive values</p> <p>33% – The offer contains 1 effective and practicable innovative suggestions that contribute(s) to at least one positive value</p> <p>0% – The offer does not contain any effective and practicable innovative suggestions</p>

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks
		<p><u>Points to note –</u></p> <p>(a) Innovation may not necessarily be technology-related. It can be any suggestion not conventionally adopted or even readily envisaged by the procuring B/D that can create or bring about positive value to the Government or the public at large.</p> <p>(b) The “improvement/benefit” mentioned above should not be confined to a narrow scope. A B/D should be receptive to any innovative ideas and should be prepared to appraise / assess any unexpected suggestion. The procuring B/D is encouraged to fully consider possibilities for adopting innovative suggestions, assess their potential benefits, and allocate sufficient technical weightings in the marking scheme to facilitate that.</p> <p>(c) For assessment of an innovative suggestion, a procuring B/D may consider the following factors:</p> <ul style="list-style-type: none"> the effectiveness of the innovative suggestion in achieving any of the relevant benefits; the feasibility and practicability of the suggestions; and the reliability/sustainability of the suggestions; and the consistency where practicable in the assessment of innovative suggestions submitted by tenderers in different contracts within the same B/D. <p>[Note: A procuring B/D should lay down in the marking scheme the guidelines and provide examples of the types of information required for demonstrating the effectiveness and practicability of the innovative suggestions. A procuring B/D may request tenderers to submit supporting documents or provide a demonstration/proof-of-concept to prove the feasibility and practical effects of their suggestions where appropriate. Marks should only be given to those proposed innovative suggestions that the tenderer would be capable of and responsible for implementation.]</p> <p>(d) Overlapping with other specific criteria in the MS shall be avoided.</p> <p>(e) The procuring B/D should remind tenderers to highlight their innovative suggestions in their submissions to facilitate evaluation.</p> <p>(f) If a procuring B/D chooses to invite both types of innovative suggestions, marks distributed to Type I and Type II innovative suggestions should be in a proportionate manner, i.e. a higher weighting will normally be given to Type I innovative suggestions.</p> <p>(g) The SMS Framework does not prohibit a procuring B/D from accepting an innovative suggestion both as Type I and Type II suggestions and scoring it twice or scoring an innovative suggestion more than once within the same type. However, if the double-scoring formulation is adopted and marks are given to an innovative suggestion more than once, the justifications must be articulated and recorded clearly in the tender report.</p>
B. Experience, Qualification or Certification	0 – 15	<p><u>Points to note –</u></p> <p>(a) To encourage the participation of start-ups and SMEs in government tendering exercises, the marking guidelines for assessing tenderers’ experience or certification should not be set too prohibitive. All the assessment criteria listed under this section are included as examples for illustration purpose only.</p> <p>(b) A procuring B/D should provide proforma/schedules in the tender document to facilitate tenderers’ submission of experience claims.</p>

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks
1. Relevant experience of the tenderer [or its manufacturer(s) or its sub-contractor(s) or its local agent(s)] within a certain period immediately preceding the original TCD [in a particular aspect]		<p>Marks may be given according to the duration of experience of tenderer [or its manufacturer(s) or its sub-contractor(s) or its local agent(s)]. An <u>example</u> is provided as follows –</p> <p>100% – ≥ 5 months/years 80% – ≥ 4 – <5 months/years 60% – ≥ 3 – <4 months/years 40% – ≥ 2 – <3 months/years 20% – ≥ 1 – <2 months/years 0% – ≥ <1 month/year</p> <p><u>Points to note –</u></p> <p>(a) Experience can be quantified as number of years of experience/total completed contract value/number of completed contracts with a value exceeding the specified amount within that certain period immediately preceding the original TCD. For example, tenderer's experience in the supply of the laboratory equipment in the past ten years preceding the original TCD.</p> <p>(b) If relevant local experience is to be specifically considered, there must be justifications to support that it is essential for the satisfactory completion of the project and not intended to discriminate against tenderers based outside Hong Kong. For tenders subject to the Agreement on Government Procurement of the World Trade Organization (WTO GPA), the procuring B/D must consult the International Law Division of the Department of Justice in this regard.</p>
2. Valid and relevant ISO and OHSAS certifications of the Tenderer [or its manufacturer(s) or its sub-contractor(s) or its local agent(s)]		<p>An <u>example</u> of how marks may be given is provided below –</p> <p>100% - Accredited to ISO [9001], ISO [14001] and OHSAS [18001] and supported with documentary proof of all certificates which are valid as at the original TCD.</p> <p>66% - Accredited to any two of ISO [9001], ISO [14001] or OHSAS [18001] and supported with documentary proof of all certificates which are valid as at the original TCD.</p> <p>33% - Accredited to any one of ISO [9001], ISO [14001] or OHSAS [18001] and supported with documentary proof of the certificate which is valid as at the original TCD.</p> <p>0% - Not accredited to any of ISO [9001], ISO [14001] or OHSAS [18001] as at the original TCD or failed to provide valid documentary proof.</p> <p><u>Points to note –</u></p> <p>The listed ISO/OHSAS certifications in square brackets above are for illustration only and should be modified to suit the requirements of the procuring B/D.</p>
3. Other specific experience to meet the production requirement of the product(s) being offered / usage history of the product being offered / experience or qualification of key personnel responsible for the production of the product under procurement		<p>By way of illustration, in relation to a contract for the supply of testing equipment, the procuring B/D may wish to consider the number of laboratory by which the equipment has been put in use within a certain period immediately prior to the original TCD.</p> <p>Assessment of the experience and/or qualification of key personnel is not common in the procurement of stores contracts. In case the procuring B/D wishes to do so, marks in respect of key personnel's experience may be given with reference to the example for assessment criterion 1 in Section B above.</p> <p>For certifications/qualification of key personnel, an <u>example</u> for giving marks is provided below:</p> <p>100% - holds more than two recognised certification/qualification 60% - holds two recognised certification/qualification 20% - holds one recognised certification/qualification 0% - holds none of the recognised certification/qualification</p> <p><u>Points to note –</u></p> <p>(a) A procuring B/D is required to specify clearly in the tender document the certification/qualification requirements.</p> <p>(b) The number of key personnel to be assessed should be kept to the absolute minimum.</p>

Assessment Criteria	Permitted Range of Marks out of 100 Total Marks	Marking Guidelines/Examples/Remarks
C. Others	0 – 15	<p><u>Point to note</u> –</p> <p>Where appropriate, a procuring B/D may accord marks to innovative elements under assessment criteria of this Section.</p>
<p>A procuring B/D may adopt other assessment criteria for non-technical aspects of the product. Examples of such assessment criteria may include -</p> <p>1. Delivery / Implementation Schedule (e.g. this assessment criterion can be used in MS for delivery of laboratory systems of which the tenderer may take several days or weeks before delivery of the systems can be made.)</p> <p>2. Minimum order value for each delivery location (e.g. this assessment criterion can be used in MS for contracts for the supply of multiple items of low unit rate.)</p>		<p><u>Examples</u> of how marks may be given are provided below –</p> <p>e.g. the required delivery / implementation schedule is within <90 days> from the date of order:</p> <p>100% – ≤ 60 days 50% – ≤ 80 days 0% – ≤ 90 days</p> <p>e.g. the required minimum order value is ≤ HK\$1,200 for each location:</p> <p>100% – <HK\$800 50% – ≥HK\$800 - ≤HK\$1,000 0% – > HK\$1,000 - ≤ HK\$1,200</p>
3. Warranty period (e.g. this assessment criterion can be used in MS for equipment with several years of serviceable life span.)		<p>e.g. the required warranty period is <at least 12 months> from the date of acceptance:</p> <p>100% – >24 months 50% – > 18 - ≤ 24 months 0% – > 12 - ≤ 18 months</p>
4. Manufacturing date/year (e.g. this assessment criterion can be used in MS for products which are not tailored made to the user's requirements or the product specifications that may change rapidly or the performance of the products that may deteriorate, such as vehicles or chemicals or products made of metal which may be rusty after production.)		<p>e.g. the required manufacturing date/year shall <not be earlier than 12 months> before the date of delivery of the product:</p> <p>100% – Within 6 months from the date of delivery 33% – > 6 months - ≤ 10 months before the date of delivery 0% – > 10 months - ≤ 12 months before the date of delivery</p> <p><The scale is to be determined and filled in by B/Ds.></p>

Main Features for Invitation of Alternative Design Proposals for Works Tenders

Background

The Development Bureau ("DEVB") has provided the following guidelines to facilitate works departments to invite alternative designs in tendering for part of the Works, such as foundation/piling and tunneling works, where there is potential for better value for money or for enhancing buildability.

Preparation of tender documents

2. The tender documents shall –
 - (a) specify the **part of the Works** for which alternative designs are invited;
 - (b) include a conforming design and a complete set of **minimum design criteria and requirements** related to the part of the Works for which alternative design is invited. A tender not complying with the minimum design criteria shall be considered as a **non-conforming** tender;
 - (c) allow tenderers to elect to submit a tender with an alternative design. It is not necessary that both tenders (conforming and alternative) are submitted. If a tenderer elects to submit both tenders, the two tenders shall be assessed as **two independent tenders** without affecting each other;
 - (d) include a clear indication of any **design** or method which is **not allowed**;
 - (e) request tenderer to submit separately a **price schedule** for the alternative design; and
 - (f) allow adequate **tendering period**.

Tender evaluation

3. Tenders with conforming design and with alternative design are evaluated using the **same** marking scheme. The Standard Marking Scheme for works tenders has allowed a dedicated section for "**Tenderer's Design**" with maximum permitted full mark of **30** out of 100.
4. The "Tenderer's Design" may be assessed according to the following attributes-
 - (a) aesthetics and overall appearance;
 - (b) functional and planning requirements;
 - (c) structure system and buildable design;
 - (d) building service, M&E and electronic system;
 - (e) operation, maintenance and durability;
 - (f) environmental friendliness, health & safety;
 - (g) life cycle analysis & energy efficiency; and

- (h) compatibility with designs of adjacent and interfacing works.

5. A tender with **conforming design** should always be given the **passing mark** (mandatory) assigned to this section, which is normally **half** of the maximum mark, whereas a tender proposing alternative design shall be assessed against the Engineer/Architect's design as a reference benchmark. A higher or lower mark may be given to the alternative design depending on their own merits.

Other relevant contract terms

6. The following contract terms used in works contracts may also be relevant –
- (a) The Contractor shall have in respect of any defect or insufficiency in the Contractor's Design the like **liability to the Employer** as would an appropriate professional designer holding himself on the design;
 - (b) The Contractor shall ensure that the Contractor's Design is **fit for the purpose**;
 - (c) The Contractor shall warrant that the Contractor's Design and its resultant work **conform to any performance specification**;
 - (d) Upon the completion of the Works, the Contractor shall be deemed to have granted to the Employer free of all fee a **transferable, non-exclusive and irrevocable licence** to utilize the Contractor's Design; and
 - (e) The Contractor shall **indemnify** the Employer against all claims in respect of infringement of **intellectual property rights** arising from the use of the Contractor's Design.

Reference

DEVB TC (W) No. 3/2014 Contractors' Designs and Alternative Designs

DEVB TC (W) No. 4/2014 & 4/2014A Tender Evaluation Methods for Works Contracts

Main Features of Three-envelope System Implemented by Hong Kong Housing Authority

Background

Hong Kong Housing Authority ("HKHA") has adopted a three-envelope system in two of their housing development projects, including Kai Tak Development Site 1B in 2009 and Anderson Road Site A and Site B Phases 1 and 2 in 2012, to invite tenderers to provide **innovative housing design and construction solutions** which can be transferred for **general applications** for future housing projects.

Details

2. In the three-envelope system, tenderers are required to submit (a) a design and technical proposal; (b) **innovation proposals**; and (c) a price proposal for execution of the works. The first and third envelopes are similar to the technical and price envelopes in the traditional two-envelope approach for submission of tenders, while the second envelope requires tenderers to submit innovation proposals with the corresponding price adjustment. 5% of marks is assigned to the assessment of the innovation envelope and the score weighting of the three envelopes is **40:5:55**.

3. As for the design and technical proposal, tenderers shall provide corporate experience and past performance claims, execution plans as well as detailed design for the housing project, in order to demonstrate compliance with the contract requirements and specifications for development of the housing project. Any innovations involving design and construction solutions which are **not required under the contract requirements or specifications** shall be presented in the innovation envelope. These innovation proposals and the corresponding price adjustment as per each of the innovation proposals shall be submitted separately in two sub-envelopes for a two-stage assessment.

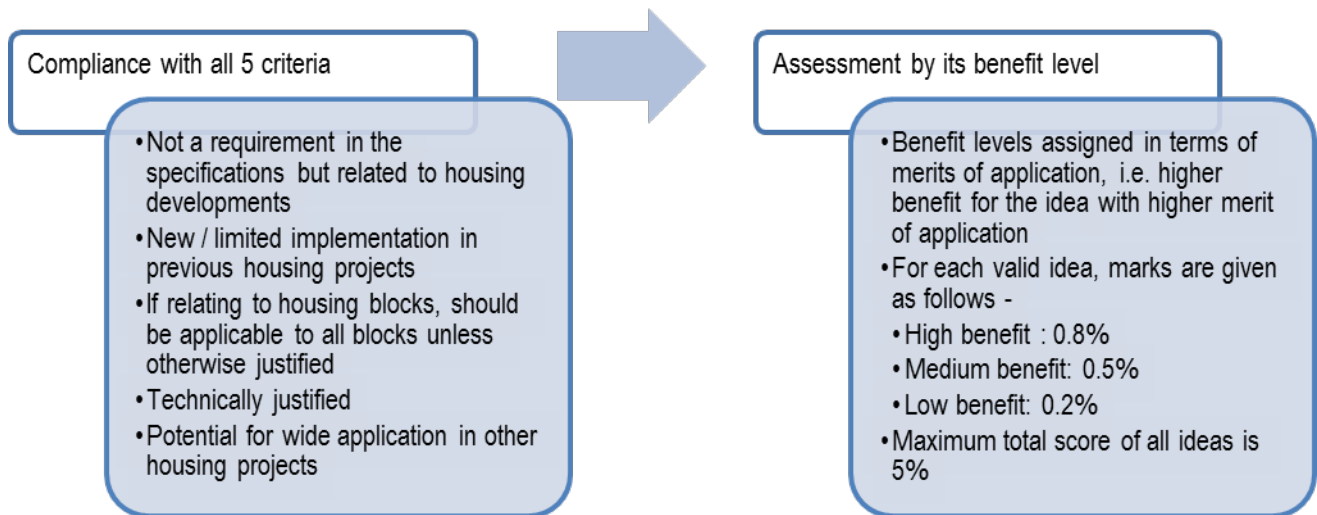
Preparation of Tender Documents

4. The tender documents shall –
- (a) provide a conforming design (schematic base plan) as a benchmark;
 - (b) specify the project requirements of design / product performance; and
 - (c) set out the basis for the scope of technical submission and assessment standard.

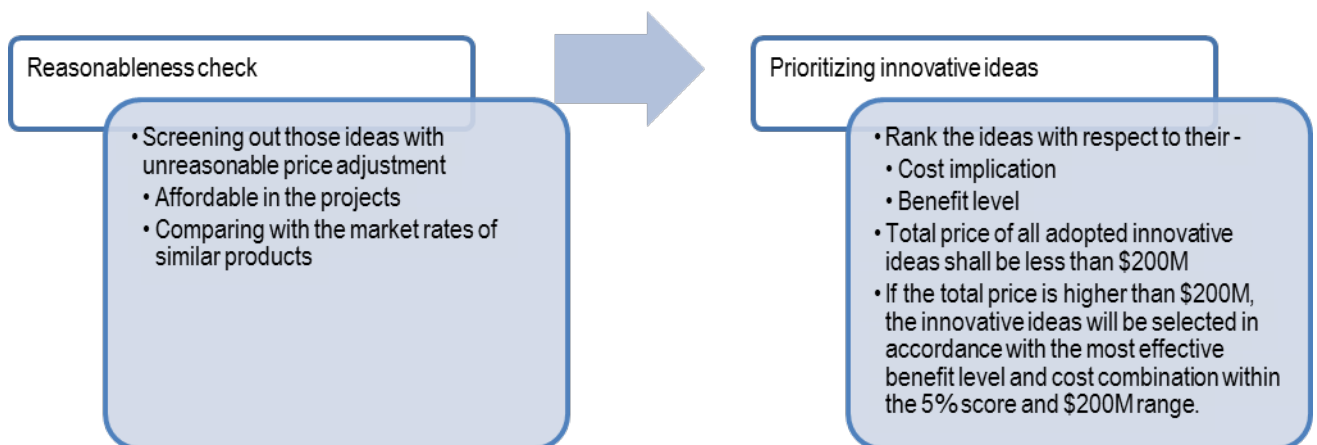
Tender Assessment

5. For the design and technical proposal, tenderers' design will be **assessed against the schematic base plan** on different prescribed performance indices, such as green coverage, daylighting, air ventilation or view corridor. Passing marks should be assigned for the assessment of design and technical proposal.

6. For the innovation proposals, the first sub-envelope containing proposal of innovative ideas with their technical details will be assessed as follows –



Upon completion of the assessment of the first sub-envelope, the second sub-envelope containing the price adjustment as per each of the innovative ideas will be assessed as follows –



No passing marks should be set for the assessment of innovation proposals.

7. For the price assessment, the tender price offered in the price proposal and the price adjustment of those justified (both technically and financially) innovative ideas will be **added up** to constitute the tender sum for assessment.

Intellectual Property Rights

8. HKHA offers a one-off lump sum payment to all conforming but unsuccessful tenders with justified innovative ideas as an equitable sharing of part of the direct cost and expenses of professional input of the tenderers and to acquire the intellectual property rights. It also allows possibility for HKHA to incorporate the tenderers' design and innovation proposals into the successful tender or other housing projects.

Service Locations	Availability
Category 3	At least two (2) times daily, operation to be conducted between 09:00 to 16:30
Category 4	At least two (2) times daily, operation to be conducted between 09:00 to 16:30
Category 5	At least one (1) times in alternate days
Category 6	At least two (2) times daily, operation to be conducted between 09:00 to 16:30

(2) Level of performance

Performance measures	Performance Requirements
<u>Cleanliness</u> (See photographs illustrated in this Annex) <u>Grade A –</u> Free of Waste (including abandoned junk and bagged refuse), litter, cigarette ends, sand, debris, grit and faecal matter, predominantly free of dry leaves and weeds; the grass verges predominantly free of litter and cigarette ends <u>Grade B –</u> Widespread distribution of litter with slight accumulation	<u>For Service Locations Category 1</u> Level of Cleanliness shall attain Grade A between 09:00 and 22:00 <u>For Service Locations Category 2</u> Level of Cleanliness shall attain Grade A between 09:00 and 20:30 <u>For Service Locations Category 3, 4 & 6</u> Level of Cleanliness shall attain Grade A between 09:00 and 16:30 <u>For Service Locations Category 5</u> (Services to be provided once in alternate days) Level of Cleanliness shall attain Grade A prior to the end of each sweeping time
Responsiveness	Upon detection of level of cleanliness at any location fallen to Grade B, the Contractor shall re-perform the Street Sweeping Services to attain Grade A within 45 minutes.

Note: The Contractor shall engage adequate and appropriate portable lighting equipment to secure the safety of workers when performing the Services at night time.

V. Proposal by Tenderer

- (1) Tenderer shall provide detailed information in its work plan of the Execution Plan for the above Services.
- (2) Tenderer may provide the information with other materials as it thinks fit to provide to demonstrate its competency in carrying out the Services.



Photographs Illustrating Level of Cleanliness
For Street Sweeping – Grade A



Photographs Illustrating Level of Cleanliness
For Street Sweeping – Grade B

Example of over-specification in product requirements

Representative and be available for inspection by the Inspecting Officer at least two (2) weeks before the commencement of the Services.

- (d) The Contractor shall ensure that all Vehicles, equipment and tools are kept in clean and sanitary condition. Tools and equipment such as mops, cloths, dusters, etc. must be washed thoroughly after use.
- (e) The Contractor shall cause all Vehicles, work gears, equipment and tools to bear such words, devices or insignia as the Government Representative may require, including but not limited to the display of a notice as in accordance with the wording at **Annex XI** in A4 size at a conspicuous position of each vehicle engaged for the performance of the Services. The notice should be easily seen by the public, preferably on the side of the body of the vehicle facing the pavement.
- (f) The Contractor shall pay all costs, charges, expenses and outgoings whatsoever of or incidental to the provision, management, operation, garaging, maintenance and replacement of the vehicles and all such other equipment, materials or tools.

4. Design and Specifications of Mini Street Washing Vehicles (MSWVs) and Equipment

- (a) Unless otherwise stated, street washing services shall be carried out through the deployment of MSWV with HPHWC System specially designed for such purpose in the manner as more particularly described in Clauses 4(b) and (c) below.
- (b) Each MSWV for street washing service shall comply with the following design and specifications:
 - (i) It shall be a lorry with permitted gross vehicle weight of not more than 9 tonnes, equipped with petrol or diesel engine of **Euro V** or later emission standard, have sufficient seats for one (1) Supervisor-cum-Driver and two (2) General Workers.
 - (ii) It shall be provided with washing equipment of sufficient power for effective removal of chewing gum deposits, grease, filth, dirt or other stubborn stains from the carriageways, channels, pavements, lanes and the like. The washing equipment shall include a water tank with a hose and the HPHWC System. The hose connecting the trigger gun and wand and PWSC shall be extendable for a total length of at least fifty (50) metres to facilitate washing of rear lanes or areas inaccessible by the MSWV.
 - (iii) The water tank shall have capacity of at least two thousand (2,000) litres and must be securely affixed to the body of the MSWV and designed in such a way to prevent spillage of dripping of water.
 - (iv) The MSWV Team for performing Street Washing Services shall be provided with one (1) MSWV and not less than one (1) HPHWC System.
- (c) The HPHWC System comprises a PWSC, a trigger gun and wand and a water pump. It shall comply with the following design and specifications:
 - (i) Each PWSC shall be installed with a stainless steel round housing of 508 millimetres to 610 millimetres [twenty (20) to twenty four (24) inches] diameter, a high speed rotating spray nozzles and a brush skirt at the edge of housing, and shall be driven by a water pump to perform high pressure washing services and prevent the surrounding area from over spraying causing nuisance to the public.
 - (ii) Each trigger gun and wand shall be equipped with extension wand and spray nozzles and shall be driven by a water pump to perform high pressure washing services.
 - (iii) Each water pump shall be a heavy-duty engine-driven powered water pump equipped with a diesel engine with electric start up and diesel fired burner for generating high pressure hot water for washing. It shall have power output of not less than 10 horsepower, operating pressure up to 200 bar or more, be able to generate water with maximum capacity of 960 litres/hour at sufficiently high pressure and temperature of not less than 80°C and be able to withstand normal operation for an 8-hour (net) Work Shift. Each HPHWC System shall be equipped with general features including but not

**Procurement of Stores, Services and Revenue Contracts through
Restricted / Single Tendering or Direct Engagement**

Preamble

In line with the principle of open and fair competition, the Stores and Procurement Regulations (“SPR”) 315 provides that bureaux/departments (“b/ds”) should normally adopt open tendering for invitation of tenders. Under special circumstances and where approvals from the concerned authorities have been obtained, departments may invite tenders through other tendering procedures such as restricted/single tendering.

2. According to SPR 331, only when open/ selective/ restricted/ single tendering would not be an effective means of obtaining the requisite stores or services or procuring revenue contracts and there are exceptionally strong justifications, departments may procure under direct engagement without recourse to the tendering procedures.

3. For the avoidance of doubt, this note does not apply to procurement of works contracts and consultancy services.

Approving Authorities

4. With effect from 1 April 2019, the approving authority of restricted/single tendering as well as direct engagement has been updated as follows –

	Restricted/Single Tendering
<i>Initiation</i>	
(a) Non-GLD tender ¹	CO for procurement valued ≤ \$10M
	PS(Tsy) for procurement valued > \$10M
(b) GLD tender	DGL or his delegated staff irrespective of value of the procurement
<i>Acceptance of tender</i>	
Non-GLD tender and GLD tender	DTC for procurement valued ≤ \$10M
	GLD Tender Board for procurement valued > \$10M and ≤ \$30M
	Central Tender Board for procurement valued > \$30M

	Direct engagement
<i>Initiation</i>	
Procurement valued ≤ \$10M	CO
Procurement valued > \$10M	PS(Tsy)
<i>Acceptance of proposal from supplier/service provider/contractor</i>	
Procurement valued ≤ \$10M	CO
Procurement valued > \$10M	PS(Tsy)

Notes

GLD: Government Logistics Department

CO: Controlling Officer

PS(Tsy): Permanent Secretary for Financial Services and the Treasury (Treasury)

DTC: Departmental Tender Committee

DGL: Director of Government Logistics

¹ Include procurement of stores not exceeding the departmental limit of \$10 million, where departments may seek assistance from DGL for preparation of tender documents and invitation of tender or as an alternative, conduct their own tender exercises in accordance with SPR 235(b).

Restricted tendering and single tendering

5. For a restricted tender, tenders are invited from **a list** of contractors approved specifically for the exercise. For a single tender, tender is invited from only **one** supplier/service provider/contractor (hereafter collectively referred to as “contractor”). Examples of circumstances justifying the use of restricted/single tendering are provided in SPR 325(a).

6. Prior approval must be obtained for the initiation of restricted/single tendering and the determination of the list of tenderers (for restricted tendering). A notice of tender invitation shall be sent by letter to the tenderer(s). The other tender procedures including the tendering period as stipulated in Chapter III of SPRs should be followed. B/ds should advise the invited tenderer(s) to submit its/their tender(s) in the same manner as under open tendering. The tenderer(s) shall not be informed that the tender(s) is/are invited on a restricted/single basis. After tender evaluation, b/d should submit the recommendations to the relevant tender board or DTC for consideration of tender acceptance.

7. In general, restricted tendering may be adopted (a) where the services/supply of stores can only be obtained from certain providers with a special qualification, certification, legal status, licence, patent, trade mark, copyright etc., which are not commonly available in the market; or (b) for cases where the open disclosure of tender specifications through open tendering is inappropriate due to safety and security concerns. In the very exceptional situation where **only one** entity is known to meet the procurement requirements, single tendering may be adopted.

Direct engagement

8. Direct engagement of a contractor without recourse to tendering procedures should only be used after it is justified to the satisfaction of the approving authority that all tendering methods including restricted/single tendering would not be an effective means of procuring the stores, services or revenue contracts. In other words, it should be used as a last resort and when absolutely necessary, for instance, on the ground of extreme urgency which renders it impossible to conduct

a tender exercise.

9. Under this procurement mode, normal tendering procedures in Chapter III of SPRs would not be applicable. B/ds should refer to SPRs 331 – 333 instead. Upon obtaining prior approval for the initiation of direct engagement, b/d will liaise directly with the selected supplier or service provider on the terms and conditions for the procurement without going through the tendering process. Acceptance of offer should be approved by the approving authority before execution of contracts.

10. Direct engagement may be used if:

- (a) the stores/services required can be provided by **only** one supplier or service provider who lacks an interest in submitting a bid and it is considered that such stores/services are required in the public interest;
- (b) the price-bidding mechanism is considered inappropriate (for instance, the **only** supplier or service provider is required, in the public interest, to provide services to the public on a cost-recovery basis);
- (c) under an emergency situation and tender procedures are not feasible due to over-riding safety and security considerations. An example is the direct procurement of services required for an urgent rescue mission; or
- (d) due to factors such as the absence of competition for technical reasons, b/d considers that the sole supplier or service provider is fully aware that it will be the only bidder to be approached by the Government, hence rendering single tendering meaningless or even undesirable from the perspective of proper use of public resources.

As the circumstances of procurement cases vary, b/ds should consider the merit(s) of each case and adopt the procurement method that would best safeguard the Government's interest and meet the operational needs.

Considerations involved

Whether the choices of the Government would be unduly restricted

11. Open tendering should be the default approach of government procurement as it is fully in line with the principle of promoting open, transparent, fair and competitive bidding. Procurement through a means other than open tendering, including restricted/single tendering or even direct engagement as a last resort, will restrict the choices available to the Government to different extent and result in a higher risk of failing to achieve value for money in general.

12. As such, b/ds should, where practicable, ensure that the use of restricted/single tendering or direct engagement would neither unnecessarily restrict the choices available to the Government nor unduly debar qualified suppliers or service providers in the market from participating in the procurement. In particular, if the absence of competition is considered to be the ground for adopting restricted/single tendering or direct engagement, b/ds must conduct appropriate market research to ascertain that it is indeed the case. In case of doubt, b/ds should revisit the appropriateness of adopting a less restrictive means so as to preserve the choices of the Government and encourage adequate competition.

13. Specifically, under the new pro-innovation government procurement policy, b/ds are encouraged to try out stores/services with technological innovation. Given that the supply of such technologically innovative stores/services in the market is often very limited, rendering open tendering infeasible or impractical, b/ds may procure prototypes, or the first product or service using new technology or innovative mode of service delivery developed at the request of the Government for research, experiment, study or original development through restricted/single tendering or direct engagement.

Whether the requirements of the Agreement on Government Procurement of the World Trade Organization (“WTO GPA”) are met

14. Hong Kong, China is a signatory to the WTO GPA. In

initiating restricted/single tendering or direct engagement, b/ds should ascertain whether the procurement is subject to WTO GPA, and if affirmative, whether there is sufficient ground to exercise the flexibility under the WTO GPA by invoking the relevant provisions² in consultation with the International Law Division of the Department of Justice (“DoJ”). In general, restricted/single tendering or direct engagement should **not** be used for the purpose of avoiding competition among contractors or in a manner that discriminates against non-local contractors or protects local contractors.

15. Specifically, for the procurements set out in paragraph 13 above where they are subject to the WTO GPA, b/ds should meet the following two conditions in order to invoke the relevant provision under the WTO GPA³ for deviation from opening tendering, –

- (a) the principal purpose of the contract must be the procurement of the results of the research, experiment, study or original development; and
- (b) the good or service procured under the contract must be a “prototype” or “first good/product or service”.

As per the advice of DoJ, original development of a first good/product or service may include limited production or supply to incorporate the results of field testing and to demonstrate that the good/product or service is suitable for production or supply in quantity to acceptable quality standards. It does not include quantity production or supply to establish commercial viability or recover research and development costs.

16. For example, in engaging a contractor to design a weather detection system that suits specific climatic conditions, condition (b) in paragraph 15 above may be met if the contract covers the supply of a

² Please refer to Articles XIII and III of 2012 WTO GPA and Articles XV and XXIII of 1994 WTO GPA. The provisions cover grounds of extreme urgency brought about by unforeseeable events, protection of patents and copyrights, purchase of a prototype or first product or service that is developed for research, experiment, study or original development, or for reasons such as requirements of interchangeability or interoperability with the existing equipment, software, services or installations.

³ Article XIII.1(f) of 2012 WTO GPA and Article XV.1(e) of 1994 WTO GPA.

number of detection systems needed to test the product or service in the relevant climatic conditions. However, when the contract has been fulfilled, subsequent procurements of the products or services are subject to the usual requirements of tendering.

Whether significant public interest is involved

17. There may exist a situation whereby open tendering is not viable and therefore the use of restricted/single tendering or even direct engagement is necessary for the sake of safeguarding public interest, especially in the case of dealing with a natural disaster, extreme urgency, national emergency, etc., when prompt action and timely response are of great importance. For procurements subject to the WTO GPA, the need for enforcing necessary measures to protect public morals, order or safety may constitute a justified ground for invoking exceptions to the WTO GPA⁴. However, such exceptions should only be invoked in exceptional circumstances. B/ds must be satisfied that the public interest involved is explicable and defensible. Examples of such scenarios may include the procurement of drugs and protective gears during a sudden outbreak of pandemic crisis, the need to resume an important public service on a stop-gap basis in the case of a contract default or unsuccessful open tendering, etc. In particular, when open tendering is not used due to significant public interest involved despite the fact that there may be other potential suppliers or service providers, b/ds should document the justifications leading to its relevant conclusion in detail.

Matters requiring attention in proceeding with restricted/single tendering or direct engagement

The importance of value for money

18. Procurement through a means other than open tendering is subject to less competition. Therefore, b/ds should be more vigilant about and take extra steps as appropriate to ensure value for money.

⁴ Article III.2 of the 2012 WTO GPA and Article XXIII.2 of the 1994 WTO GPA are relevant.

19. B/ds should critically assess the reasonableness of the price proposal(s) proposed by the bidder(s). Depending on the nature of the procurements, b/ds may make reference to market rates, inflationary adjustments over the contract period, and costs of similar procurements in neighbouring areas, etc. in examining the price proposals. For procurement of a prototype or first product/service, the contract price may be rationalised as part of the overall cost of procuring innovative products and services, and could be evaluated using a broader approach and taking a longer term perspective. For direct engagement which will likely involve bilateral negotiation on the engagement terms, b/ds should formulate and obtain a proper approval for its negotiation baseline before entering into any negotiation as set out in SPRs 332 and 333. B/ds must also properly document the justifications for accepting the prices offered in single tendering or direct engagement.

20. B/ds should, in conjunction with DoJ, incorporate suitable tender/contract clauses into the contract that can best safeguard the interest of the Government. These clauses may include early termination rights and milestone payments based on deliverables where appropriate.

The need to enhance performance monitoring

21. It is important for b/ds to put in place a robust performance monitoring system to manage the contractors engaged under restricted/single tendering or direct engagement. To forestall contract default and disruption to public services, b/ds should put in place a contingency plan and an effective contract monitoring mechanism. As per the advice of the Independent Commission Against Corruption (“ICAC”), an effective monitoring mechanism should include, amongst other things, appropriate monitoring actions, follow-up actions for non-conformance or unsatisfactory performance, and overall appraisal of a contractor’s performance. For reference, b/ds may refer to the “Best Practice Checklist on Government Procurement of General Goods and Services” published by ICAC as appropriate.

The need for review

22. Following the principle in paragraph 11 above, b/ds should by default review whether open tendering or a more pro-competition approach (e.g. restricted tendering against single tendering) may be adopted before confirming the need for restricted/single tendering or direct engagement upon contract expiry. Each case must be considered on its own merits and be fully justified. Justifications and all relevant facts should be properly documented.

Applications for single/restricted tendering or direct engagement

23. This Annex supplements SPR 325 for the use of single/restricted tendering and SPRs 331 – 333 for the use of direct engagement. B/ds should refer to these SPRs and this Annex in preparing their applications for adopting these procurement modes.

24. A written request, signed or endorsed by a public officer at directorate level, shall be made to the appropriate approving authority. The request should include the following information/justifications to the satisfaction of the approving authority –

- (a) the estimated value of the contract, with justifications on the cost reasonableness;
- (b) a confirmation that sufficient funds are available for the intended procurement, including any possible recurrent/ maintenance costs arising from the intended procurement mode;
- (c) an explanation on why open tendering (and restricted/single tendering if direct engagement is to be pursued) would not be feasible/effective;
- (d) justifications for the use of restricted/single tendering and direct engagement, as well as the public interest involved;
- (e) the supplier(s) or service provider(s) to be engaged with justifications, including its/their past performance in undertaking similar government contracts if available;
- (f) policy support from the relevant policy bureau (for cases

- requiring PS(Tsy)'s approval only⁵;
- (g) a copy of legal advice from DoJ, as appropriate; and
- (h) b/d's plan on how the contract will be procured in the longer term.

In addition to the above, for direct engagement which does not involve a bidding process –

- (i) the contracting strategy having regard to the need to protect the Government's interest and avoid public criticism; and
- (j) the negotiation strategy with the baseline position on the cost or revenue, if applicable.

Monitoring

25. To facilitate future review on cases approved under departmental authorities for the use of restricted/single tendering or direct engagement, b/ds will be requested to submit information on these cases on an annual basis.

Enquiries and request for case-specific advice

26. For enquiries of this Annex, case specific advice on restricted/single tendering (except for stores) or direct engagement cases, please contact Chief Executive Officer (T) at 2810 3812 or Treasury Officer (T)1 at 2810 2497 of the Financial Services and the Treasury Bureau.

27. Case-specific advice on the use of restricted/single tendering for the procurement of stores may be directed to GLD (Chief Supplies Officer (Procurement Administration)) at 2231 5232.

Financial Services and the Treasury Bureau (Treasury Branch) Government Logistics Department

⁵ Along the spirit of streamlining, this is not a mandatory requirement for single/restricted tendering or direct engagement cases to be approved by COs personally.

**Facilitating measures to market players
and assistance to procuring departments**

This Annex sets out the facilitating measures to market players and assistance available for procuring bureaux or departments (B/Ds) to take forward pro-innovation government procurement.

Coordinated publication of procurement plans

2. To facilitate planning on the part of prospective tenderers and promote greater awareness of government procurement opportunities, the Government Logistics Department (GLD) will coordinate the publication of procurement plans of B/Ds at its dedicated web portal (https://www.gld.gov.hk/eng/services_2_b.htm) to provide a convenient first-stop for access to procurement information. GLD will invite and collate the relevant information from B/Ds on a regular basis.

3. For enquiries or more information, please contact Chief Supplies Officer (Procurement Administration) of GLD at 2231 5232.

Innovation facilitators

4. The Electrical and Mechanical Services Department (EMSD) and the Office of the Government Chief Information Officer (OGCIO) have agreed to act as innovation facilitators to assist B/Ds in procuring technological innovation.

EMSD

5. EMSD will support B/Ds in identifying suitable electrical and mechanical (E&M) solutions, and to advise on suppliers' technical

capabilities in meeting the needs of B/Ds. EMSD is prepared to provide tailor-made assistance on an individual case basis to B/Ds throughout the process from incubation of ideas to large-scale deployment as deemed appropriate. EMSD will also assist B/Ds in building collaborative partnerships with the Innovation and Technology (I&T) sector including start-ups, universities and the trades, strengthening connections between B/Ds and the I&T sector, as well as identifying and developing expertise on strategic enabling technologies.

6. In case of need, EMSD will assist B/Ds in identifying E&M experts outside the Government for technical advice on technological innovation.

7. For enquiries or more information, please contact the Inno-office of EMSD at 3757 6193 or inno@emsd.gov.hk.

OGCIO

8. OGCI will set up a Smart Government Innovation Lab (the Smart Lab) in April 2019 to coordinate and facilitate the promotion of Smart Government¹. Through the Smart Lab, the industry including local start-ups and small and medium sized enterprises (SMEs) will be invited to put forward proposals on innovative information technology (IT) applications and product suggestions for use in public services. The Smart Lab will also assist B/Ds in conducting research on innovative IT solutions on specific issues or problems encountered in their service delivery. Trials and technology testing will be conducted jointly with relevant government departments, thereby allowing B/Ds to effectively formulate innovative measures to improve public services.

9. With well-established network with the supplier and start-up communities, the Smart Lab will help source potential solutions from the industry that match the business needs of B/Ds and select suitable ones for trials and proof-of-concepts as well as subsequent rollout in partnership with B/Ds.

¹ Smart Government is one of the six focus areas under the Smart City Blueprint for Hong Kong promulgated in December 2017.

10. In case of need, OGCIO will also assist B/Ds in identifying IT experts outside the Government for technical advice on technological innovation.

11. For enquiries or more information on the Smart Lab, please contact Senior Systems Manager (Governance and Resources)³ of OGCIO at 3182 6731 or smartlab@ogcio.gov.hk.

The “E&M Inno Portal”

12. The “E&M InnoPortal” is an on-line I&T collaboration platform for matching service demand with suitable enabling technology. Through this platform, EMSD will share I&T wish-lists of B/Ds, public bodies and the trade, whereas universities and start-ups can propose matching I&T solutions to address the I&T wishes. On the other hand, the platform will also post I&T products and solutions that can be offered by universities and start-ups with a view to inspiring B/Ds, public bodies and the trade to explore potential areas of application of the I&T products and solutions.

13. For enquiries or more information, please contact the Inno-office of EMSD at 3757 6193 or inno@emsd.gov.hk.

Trade shows

14. The Innovation and Technology Bureau (ITB)/Efficiency Office (EffO) will line up with the I&T industry players to organise trade shows focusing on a particular theme or technology, or targeting a particular business area in the public sector to help B/Ds build up awareness and knowledge of the latest technology available in the market.

15. For enquiries or more information, please contact Team 2 of EffO at 2165 7210.

Design thinking

16. The Commerce and Economic Development Bureau (CEDB) and EffO have developed “Guide to Applying Design Thinking in Government Procurement” (**Appendix A**) for reference by B/Ds. For enquiries or more information, please contact Team 1 of EffO at 2165 7246.

Market engagement

17. As endorsed by the Steering Committee on Innovation and Technology, B/Ds are encouraged to reach out to the market and to keep abreast of the technology development in the market. EffO has developed “Guide to Engaging with the Innovation and Technology Sector” for reference by B/Ds (**Appendix B**). For enquiries or more information, please contact Team 2 of EffO at 2165 7210.

18. With the assistance of the Independent Commission Against Corruption (ICAC), the Competition Commission and the relevant B/Ds, the Financial Services and the Treasury Bureau/GLD have coordinated a checklist of “Dos” and “Don’ts” in market engagement for general reference by B/Ds (**Appendix C**). Please refer to the contract points in Appendix C for advice/enquiries.

Training and workshops

19. GLD runs regular seminars to inform and update B/Ds on government procurement principles and procedures. To facilitate B/Ds in procuring stores/services with technological innovation, ITB/EffO will work with GLD to co-organise training and workshops for B/Ds on this front. Details will be announced in due course. For enquiries or more information, please contact GLD’s Helpdesk on procurement matters at 2231 5232 (for regular seminars) or Team 2 of EffO at 2165 7210 (for the training and workshops related to technological innovation).

Commerce and Economic Development Bureau
Financial Services and the Treasury Bureau
Innovation and Technology Bureau
Efficiency Office
Electrical and Mechanical Services Department
Government Logistics Department
Office of the Government Chief Information Officer

Guide to Applying Design Thinking in Government Procurement

Efficiency Office
January 2019

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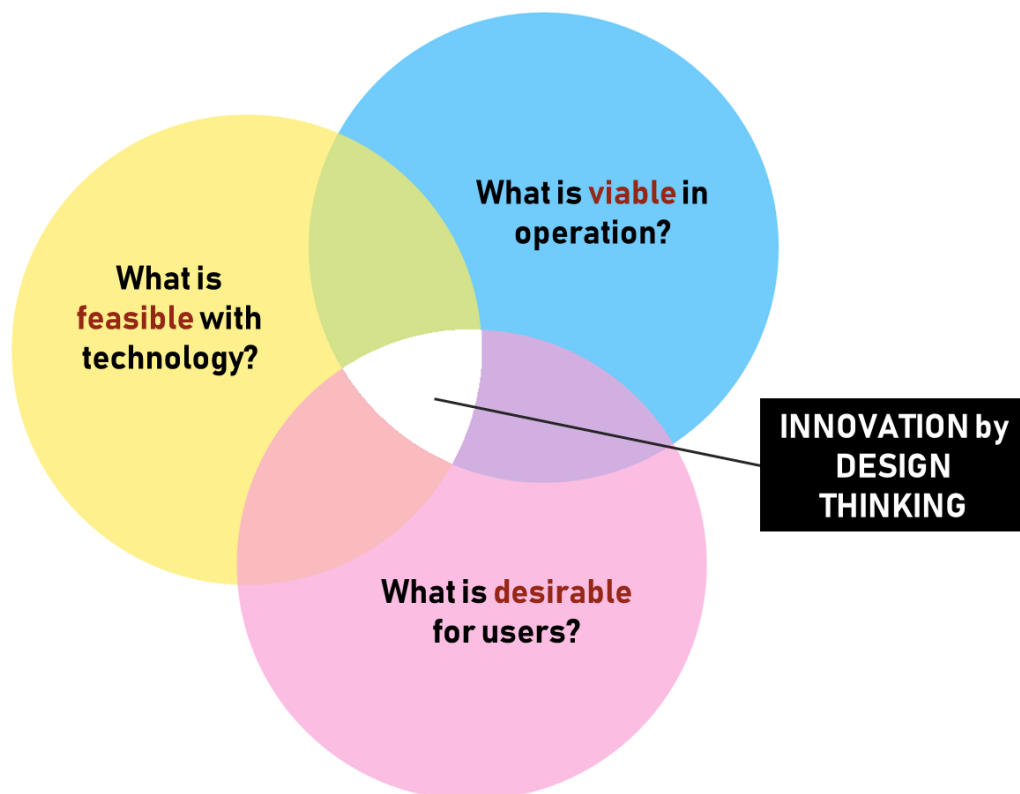
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1 Introduction

1.1 What is design thinking?

Design thinking is a human-centred approach to problem-solving and innovation that integrate the needs of people, the operational viability, and the possibilities of technology.

The core principles of design thinking are problem identification; co-designing the solutions with the clients; and employing empathy throughout the journey. It also embraces experimentation and iteration.



1.2 Why applying design thinking in government procurement?

The Chief Executive announced in her 2018 Policy Address that the Government will draw up internal guidelines to encourage departments to adopt pro-innovation proposals and apply design thinking in the procurement process to enhance efficiency, to meet the needs of the public, and to advocate the “people-oriented” service culture¹.

For government procurement, applying the traditional problem-solving approaches might short circuit the process by jumping from the needs of the users to pre-defining a solution. Design thinking will help users get a clear understanding of end-users / clients and their needs, the business issues and the solutions available in the market. The process offers opportunities to explore innovation to improve service delivery.

The benefits of applying design thinking in government procurement include –

- inject user-centricity into the process
- create alignment among multiple parties
- bring in new and innovative ideas about the requirements
- secure wider buy-in from end-users
- stronger reality checks at earlier stages and hence reduced risk of unintended consequences

1.3 Using the Guide

This Guide aims to help users apply design thinking in the procurement process. It provides guidance on how to frame and validate the problem, and how to draw up user-centric requirements.

There is no standard process to apply design thinking in government procurement. Users may decide the approach that will get the best results for the procurement you are working on. This Guide is for reference purpose only.

¹ Paragraph 140 of the Chief Executive’s 2018 Policy Address, 10 October 2018.

This Guide should be read in conjunction with the relevant Financial Circulars on procurement, Stores and Procurement Regulations (SPR) and other procurement guides such as “Do-s and Don’t-s in Market Engagement” and “Guide to Engaging with the Innovation and Technology Sector”.

2 Key Considerations for Applying Design Thinking in Government Procurement

2.1 Identifying suitable products / services

Design thinking is best applied to solve complex problems that have no off-the-shelf solution and when innovation is needed. In procurement context, design thinking may be applicable in the following situations –

- new item / service
- complex item / service where customisation may be required
- multiple stakeholders or user groups who have different needs / requirements requiring alignment and prioritisation
- need for a creative or innovative solution

Planning and running design thinking activities require an understanding of the design thinking concepts, principles, methodologies and its vibrant nature, and also practical experience. Hence it is better to start small and select simpler procurement exercise to pilot the approach.

2.2 Securing top-level support

A design-led approach in procurement may result in drastic changes in the way the service is being delivered. Very often the process requires cross-sector collaboration. For this reason, it is important to secure top-level support to –

- carry through the whole journey with encouragement and reinforcement
- equip responsible staff with strategic understanding on the possibilities of the design-led approach
- be the internal champion on change for citizen(user)-centred innovation

2.3 Allowing sufficient time and resources

Given its strong emphasis on understanding people, activities and context, you need to allow sufficient time and resources for adopting design thinking in the procurement process. Alternatively, you may outsource the design thinking activities to an external consultant². In this respect, you need to secure funds for the contract and make available manpower resources for contract monitoring.

2.4 Focusing on users' needs, not administrator's needs

Design thinking starts with the users. You procure goods and services to meet the needs of the end-users. Though you have to comply with relevant regulations and procedures during the procurement process, you should always remind yourself the reason to procure is to meet the needs of end-users.

2.5 Not starting with a solution

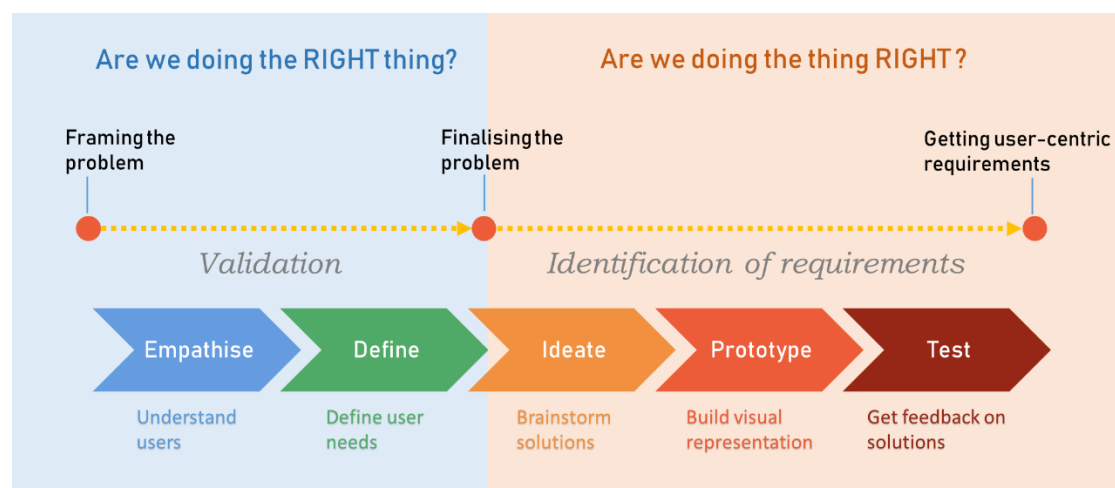
Procurement always starts with a question or statement of intent. It is important not to pre-empt the solution at the beginning. Start the process by thinking how user needs can be best met. To achieve this, you need to understand users thoroughly (finding out their ultimate / underlying needs) and avoid making your own assumptions.

² Please refer to the Central Cyber Government Office for the useful resources for procuring design thinking consultancy services (<http://portal.ccgo.hksarg/en/ia/DisplayIAByBDLink.jsf?bdId=425>).

3 Applying Design Thinking in Government Procurement

There are many design thinking models but they all share the same goal and similar principles to tackle complex problems with a human-centered approach. With reference to the five-phase “Bootleg” model³, design thinking assists government procurement in the following aspects –

- framing the problem
- validating the problem with stakeholders
- identifying user-centric requirements



3.1 Framing the problem

You always start the procurement process by having a problem or an intent in mind. With that, the first thing you should do is to align the problem within your team. This alignment will lay the foundation for subsequent stages of the design-led procurement process. Here are what you should do –

- identify key team members

³ The ‘Bootleg’ model of design thinking by Stanford d.school comprises five phases including Empathise, Define, Ideate, Prototype and Test.

- meet up and discuss different viewpoints on the problem, e.g. who are the key user groups, what social and cultural factors shape the problem, which particular problem area is significant and worth investing in, and why
- align the problem to be solved

3.2 Validating the problem with stakeholders

You need to validate the problem with the stakeholders to ensure you are working on the “right” issue. Below are the steps to follow –

3.2.1 Understanding stakeholders

Who they are

You need to identify the key stakeholders of the problems. They may include the policy units, colleagues and citizens using the existing goods / services or any other potential users. You should ensure the voices and opinions of these stakeholders are fairly represented in the subsequent user research.

What, how and why they do it

If you offer user-centric products / services, you need to have a thorough understanding on what the users really need, how and why they behave, feel, and think. You may use the following methods to uncover user needs.

Approach	Characteristics
Interview	<ul style="list-style-type: none">• Gain a basic understanding of the users’ needs, values and beliefs• Strike a proper balance between qualitative and quantitative information and the mix of demographic representations and behaviours
Observation	<ul style="list-style-type: none">• Reveal users’ actual behaviours that may be different from what they say
Immersion	<ul style="list-style-type: none">• Experience what users experience from their point of view, in their usual physical environment• Build deep empathy towards users and unlock insights that will help shape the user requirements

Approach	Characteristics
Journey Mapping	<ul style="list-style-type: none">• Document and understand how people experience a product or service• Help identify key touch points and areas of opportunity

Personas

You can group the information collected and develop target segments (personas) which represent different user types that use the products / services. A typical persona includes information like a fictional name, demographics (e.g. age, education, family status), job position and duties, usual behaviours, aspirations and pain points.

Creating personas can help you –

- identify the users you are procuring for
- understand your users' values, needs, motivations and barriers to engage
- get inspirations from different people with various needs and expectations

Prioritising user needs

You cannot meet all user needs gathered. You have to accord priority to the needs so that you know what to be addressed in the procurement exercise. You may weigh the needs by their importance (i.e. the impact and value to users), feasibility (i.e. factors such as technical feasibility, effort required and user acceptability), and the policy intent.

3.2.2 Finalising the problem

User need statements

A user need statement helps you understand the problem of the users. For each of the needs you are going to address, you should write full statements with appropriate wording to best communicate the insights by inserting information about the users, their needs and insights in the following sentence –

“_____ (user group) need/want _____ (needs or aspirations), because of _____ (root causes or insights).”

For example, “Senior citizens need help with using government e-services because of lack of guidance”.

How Might We (HMW) questions

A “HMW” question helps you set the direction for idea generation. e.g. “How Might We provide e-services appealing to senior citizens?” As a general rule, HMW questions should be broad enough to allow for multiple solutions and narrow enough to provide immediate direction for possibilities.

3.3 Identifying user-centric requirements

You now have a well-defined problem statement and clear direction for idea generation. It is time to “think outside the box” and identify solutions. You can organise workshops to conduct brainstorming sessions with relevant stakeholders. Below are the steps to follow –

3.3.1 Brainstorming ideas

With the HMW questions, participants brainstorm as a group and write down the ideas on sticky notes (one idea on each sticky note). The key rules for brainstorming are –

Key Rules	Description
Encourage wild ideas	• Wild ideas often bring innovation and provide breakthrough
Go for quantity	• Get as many ideas as possible
Defer judgment	• No bad ideas at this point so keep your critique to yourself
Build on the ideas of others	• Use “and” to supplement on an idea rather than “but” to encourage ideas
Allow only one conversation at a time	• Only one person should talk at a time to allow all ideas to be heard
Be visual	• Use simple drawings instead of words to express ideas which are easier to remember and build upon

3.3.2 Deciding the ideas to take forward

With numerous ideas generated, participants should then vote on the ideas that are fresh, innovative and are likely to succeed. The most promising ideas will be the ones to be developed further. Participants may also define the essential and preferred requirements in the specifications. You may conduct initial market research in parallel to ascertain technical feasibility and market availability, and to pave way for subsequent procurement processes.

If you want to ascertain that the requirements meet user needs, you may also validate your user requirements through prototyping and testing with users.

3.3.3 Prototyping and testing

Prototyping is an experimental process of creating tangible but inexpensive representation of the ideas generated in the brainstorming workshops so that the proposed user requirements can be further investigated, validated and refined. Depending on the circumstances and resources, a prototype can be created in the form of –

Type	Characteristics
Paper prototype and simple model	<ul style="list-style-type: none"> • Highlight the key features and understand how people would experience them
Role-play	<ul style="list-style-type: none"> • Participants can try out different roles in the to-be user experience and uncover the questions that they might ask
Scene building	<ul style="list-style-type: none"> • Simulate an environment and engage stakeholders to walk through the concepts physically • Suitable for space or service related procurement

Prototypes are then presented to users for feedback. The feedback will help refine the prototype for further testing. An iterative approach can be adopted for betterment of the prototype and user requirements.

After testing the prototypes for some time, the proposed user requirements should be gradually developed to a clear and certain form to become the user specifications in the procurement process.

4 Case Study – Mong Kok Post Office

The renovation project of Mong Kok Post Office, conducted from 2009 to 2011, adopted design thinking approach to define user requirements for subsequent procurement of services from design and construction firms.



4.1 Background

Before the facelift in 2011, the Mong Kok Post Office had operated for almost 20 years. Being one of the busiest post offices locating at the heart of the city and serving a broad mix of customers, there was a need to enhance the operational efficiency, broaden business opportunities and cope with the needs of customers of postal services in the 21st century.

Just as many other government projects, Hongkong Post planned to engage external design and construction firms to carry out this renovation project. However, how could Hongkong Post procure the right services to serve the objectives of this project? The ensuing paragraphs describe the design thinking journey and the outcome.

4.2 Framing the problem

The intent of this project was clear – to improve customer experience and operational efficiency through renovation of the Mong Kok Post Office. The external consultant engaged for this project organised a kick-off seminar to align the problem within key team members. Fifty staff at different levels of Hongkong Post including the senior management team and operational staff were invited to express and align their views on the following –

- existing pain points when using Hongkong Post services
- goals and priorities of this project

- user research objectives
- selection criteria of target customers



4.3 Validating the problem with stakeholders


The research team carried out observation at various post offices and interviewed a total of 70 users, so as to ensure that opinions from a diverse group of users could be fully and fairly reflected in the result of the user research.

Approach	Details
Observation	<ul style="list-style-type: none"> • People: customer behaviour (e.g. queueing flow) and staff behaviour (e.g. parcel handling procedures) • Environment: public area (e.g. entrance and parcel packing area) and staff working environment (e.g. staff counters) • Facility: signage, balance, photocopier, stationery, etc.
Interviews	<ul style="list-style-type: none"> • 49 customers (including working individuals, housewives, philatelists, tourists, pre-paid account users, business users, Internet traders, couriers, travelling businessmen, retirees, office assistants, etc.) • 21 staff (including management and operational frontline staff)



By consolidating the findings from the above user research, personas were created to demonstrate behaviour patterns, pain points, goals and needs for different user groups. Lastly, the research team discussed with the project team members to prioritise and finalise user needs and issues to be addressed.

Examples of major issues identified are as follows –

User Groups	Issues
Staff	<ul style="list-style-type: none"> • Small counters with lots of equipment • Insufficient space behind counters for passing through and storing parcels • Non-ergonomic design for counters, for example counter top was too high for staff and they need to remain standing while working 
Individual customers	<ul style="list-style-type: none"> • Inconspicuous entrance at street level • Unclear signage • Long queuing time since each queue served a wide mix of customers
Business customers	<ul style="list-style-type: none"> • Inefficient service for posting large amount of parcels each time • Inadequate parcel packing space • Poor stationery for packing

4.4 Identifying user-centric requirements

Information gathered and data generated from the user research were shared with the project team and Hongkong Post staff. A design strategy workshop was then held with the participation of the Hongkong Post management team, staff and the consultant. Under a highly collaborative environment, the team went through brainstorming, live sketching and co-creation activities in order to come up with appropriate design solutions acceptable to different users. The ideas generated during the workshop were visualised by graphics and demonstrated by role-play.

After the workshop, the study team confirmed the key areas for redesign. They included the redistribution of space inside the post office, adjustments to entrance and kiosk, enhancement of enquiry-cum-retail counter, experience redesign for the customer counter, and improvement of ergonomics for the packing table and staff counter.



A modular design mock-up counter was developed. Staff representatives from Mong Kok Post Office were invited to test and provide feedback. Their suggestions were further integrated into the counter design.

The external consultant finally consolidated the user requirements for the redesign into a design brief. Graphical representation was also included to illustrate each design concept. Overall speaking, the design brief served as a vital document for the procurement of the subsequent detailed design and construction services for the renovation of the Mong Kok Post Office.



4.5 Outcome

The outcome of the project exceeded what was expected of a renovation project. The final design won a design award in 2012 and had successfully rebranded the Hongkong Post, reshaped the interior space and redefined the customer experience. A survey conducted in the post-implementation evaluation exercise revealed that both customers and staff were satisfied with the new design, with the majority of respondents giving high ratings on the overall ambience and efficiency and agreeing that the new design could be adopted in other post offices. As such,

Hongkong Post has been adopting this award-winning design to refurbish their other branch offices so as to add value to the service delivery.

Some of the key features of Mong Kok Post Office before and after the renovation project is illustrated below.

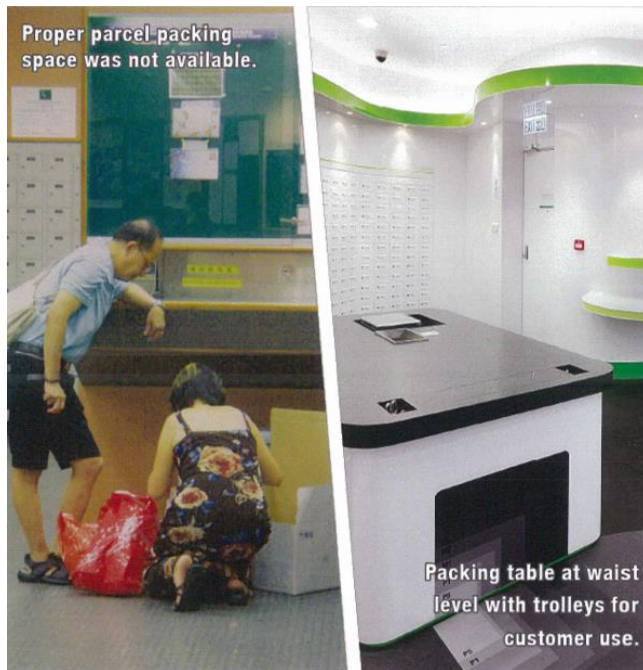
Dedicated Enquiry and Sales Counter



Digital Signage for Increased Flexibility



Packing Area for Customer



Ergonomic Designs and More Spaces for Staff



Source: Hong Kong Design Centre

Image: Courtesy of Hong Kong Design Centre

5 Enquiry on the Guide

Efficiency Office

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- Website: <http://www.effo.gov.hk/>

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Guide to Engaging with the Innovation and Technology Sector

Efficiency Office

January 2019

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1 Introduction

1.1 Why engage with the I&T sector?

The Chief Executive has announced in her 2018 Policy Address that the Government will introduce a pro-innovation procurement policy in April 2019, so as to provide a more enabling environment to encourage the adoption of innovative suggestions and facilitate the participation of more market players, including start-ups and small and medium-sized enterprises (SMEs).

Departments are encouraged to reach out to the market, particularly the innovation and technology (I&T) sector which is a valuable source of innovative ideas and solutions. Engaging with the I&T sector can help procuring departments tap market insights on how best to meet a particular requirement or challenge, and gather information on the available solutions and the potential suppliers. It can also help procuring departments draw up the project requirements and formulate the best procurement strategy. In addition, it can increase market interest, stimulate supplier innovation and spur competition. It can also provide information to the market so that suppliers can make early preparation for submission of proposals that can better meet the needs of the procuring departments.

1.2 Using the guide

This guide has been developed to help government procurement staff conduct market engagement with the I&T sector. It provides guidance on how to prepare and conduct the engagement, best practices and the sources of assistance available. Procuring departments should consider the information provided in this guide as reference materials only and should not take the advice as binding rules and regulations.

This guide should be read in conjunction with the relevant Financial Circulars on procurement, Stores and Procurement Regulations (SPR) and other procurement guides such as “Checklist of “Dos” and “Don’ts” in Market Engagement” and “Guide to Applying Design Thinking in Government Procurement”.

Throughout this guide, the term “tender” is used in a general sense to refer to government tender and other procurement arrangements such as quotation.

1.3 When to engage with the I&T sector?

Engaging with the I&T sector is a process that allows you to communicate your business needs and requirements to suppliers, shape project requirements and procurement strategy, identify opportunities for innovation in the design and delivery of the solution, and understand the market condition. Depending on the business needs, some procurement exercises, such as those for procurement of commoditised goods and services, may not warrant market engagement.

You can engage with the market before, during and after tender as long as you adopt a fair, open and transparent process and you have taken appropriate steps to ensure integrity and non-discriminatory practices and to avoid the effect of precluding competition or prejudicing fair competition.

Pre-Tender stage

At the pre-tender stage, procuring departments would identify the business needs to be met, analyse the supply market, determine the requirements, decide the procurement plan, and develop procurement documents and tender evaluation method. The purpose of pre-tender engagement is to gather sufficient market information for shaping the procurement strategy and to inform potential suppliers of the business needs so that the market can better prepare for the upcoming tender. Examples of engagement activities include meetings with suppliers, making telephone enquiries and written requests to suppliers for information and attending trade shows.

Overseas experience shows that the potential for innovation is the greatest when it is considered before tender. Therefore, early supplier involvement is essential to capture innovation in procurement. Some innovative solutions may solve business problems more effectively with a disruptive model or a completely different approach from the usual practices. You are encouraged to be open-minded in order to leverage on the business improvement opportunities opened up by innovative solutions.

Tender stage

The tender stage involves getting quality proposals from the suppliers and selecting the most appropriate one. Engaging with the market at this stage provides an opportunity for the procuring department to brief potential bidders, particularly in the case of complex, high risk and high value tenders, including the detailed tender requirements, expected outcomes and tender evaluation method. Tender briefing can be conducted after the issue of an invitation for tender.

Post-Tender stage

Engaging with the market after a tender exercise help to identify room for improvement in future tender exercises; demonstrate that the procuring department is fair, transparent and accountable in awarding contracts; and assist the procuring department to find out the reasons why potential suppliers did not participate in the tender exercise. Upon request of the unsuccessful suppliers, debriefing can be conducted as appropriate if the procuring department considers that a face-to-face discussion is more effective than a written reply for the purpose. Post-tender enquiries can also be conducted with other potential bidders to ascertain their reasons for not submitting bids in the tender exercise.

During the different stages of pre-tender engagement, tender engagement and post-tender engagement (sections 3 to 5), care should be taken to avoid discriminatory practices and to ensure that information is not provided to any supplier in a manner which would have the effect of precluding competition and that information is not sought or accepted, in a manner which

would have the effect of precluding competition, from any supplier that may have a commercial interest in the tender.

2 Key Considerations for Engaging with the I&T Sector

2.1 Be business-led, not technology driven

With the rapid advancement in technologies, it can be tempting to go after the latest technology with a view to improving service delivery. However, adopting technology for technology's sake usually fails to address the business needs. You should always start with the business needs rather than a particular technology in engaging with the I&T sector. The true value of technology can only be unlocked when it is directed towards meeting specific business needs.

If you need structured guidance in identifying the business needs and requirements, you can refer to the “Guide to Applying Design Thinking in Government Procurement”.

2.2 Treat all suppliers equally

To provide a level playing field for the suppliers, you should treat them equally by acting responsibly and with integrity – be fair, open and transparent.

To act “fairly”, you should not favour one supplier over the others, e.g. by unjustifiably incorporating the unique feature of their products / services into the specification so that it will be selected.

To be “open and transparent”, you should make the engagement process clear and open to the suppliers and manage their expectation, e.g. that the pre-tender engagement exercise is not a supplier short-listing / selection exercise and there is no commitment to procure their products or services. You should make proper records of the gist of discussions at all the meetings.

You should also refer to the “Checklist of “Dos” and “Don’ts” in Market Engagement” for the guidance on what you should and should not do in market engagement, in particular on the probity issues involved.

2.3 Manage the risks

While procuring departments are encouraged to engage the market, they need to carefully manage the risks involved. Poorly planned or executed market engagement may bring significant risks such as unfairly advantaging one supplier or increasing the likelihood of bid rigging. You should identify the potential risks, assess the likely consequences and determine the mitigation measures. The table below summarises some common risks associated with market engagement:

Risks	Likely consequences	Actions required
Actual or perceived breach of confidentiality in releasing commercial sensitive information of the suppliers	<ul style="list-style-type: none"> • Complaints or even lawsuits from suppliers • Cannot build trust for future cooperation 	<ul style="list-style-type: none"> • Process and handle the information obtained in a secure manner • Be aware of what should and what should not be shared before engaging suppliers
Actual or perceived favouritism	<ul style="list-style-type: none"> • Discouraging suppliers from bidding and hence reducing the competition and choice • Complaints of unfair practices 	<ul style="list-style-type: none"> • Engage the suppliers in a uniform and consistent manner • Keep proper records of the gist of discussion
Adopting an unrealistic timeframe for engagement	<ul style="list-style-type: none"> • Poor market response • Favours incumbents and potentially larger companies with more resources to respond quickly 	<ul style="list-style-type: none"> • Improve communication with the market with a more realistic schedule
Locking in a particular solution too early	<ul style="list-style-type: none"> • Missing the opportunity for identifying better solutions • May reduce competitive pressure on solution provider 	<ul style="list-style-type: none"> • Explore and be open to other viable solutions available in the market • Avoid giving the provider of a particular solution the impression that they are not subject to genuine competition
Providing opportunities for suppliers to discuss or share commercially sensitive information	<ul style="list-style-type: none"> • Dampens competition and can lead to bid-rigging 	<ul style="list-style-type: none"> • Where briefings are given to potential suppliers together avoid giving opportunities for them to signal how they might bid or discuss the requirement between themselves

3 Pre-Tender Engagement

3.1 Purpose

Pre-tender engagement with the I&T sector enables procuring departments to gather information on what the market can offer. It gives departments the opportunity to challenge their own presumptions (e.g. available solutions and technical feasibility), collect feedback on the proposed requirement and determine the most appropriate procurement strategy. For major projects, procurement officers should be aware of the main characteristics of the I&T market involved and any recent industry activities or changes in company ownership that may affect competition in that market. It is particularly useful to collect information on the published prices, if any, of potential bidders, prices in neighbouring markets and prices of possible alternative products or services. Information about your past tenders for the same or similar products or services may also be helpful.

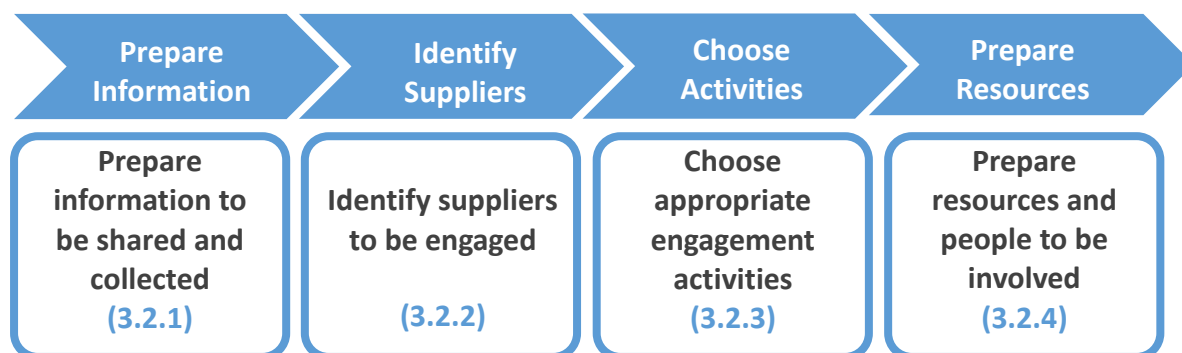
Interested suppliers should benefit from the pre-tender engagement as well because they can obtain more information and make early preparation of what the procuring department may procure. Where there is an incumbent supplier or a dominant supplier, pre-tender engagement can make it easier for competitors, particularly SMEs, to submit competitive bids.

It is not a must to engage with the I&T sector for every procurement. You may consider engaging with the I&T sector if the answer to any one or more of the following questions is “yes” or uncertain:

- Is there any uncertainty over the existence of a market for the identified business needs?
- Are there doubts over the maturity, capacity, capability and willingness of the market?
- Is the knowledge on the market superficial, incomplete or absent?
- Is there an incumbent supplier which may discourage other suppliers from bidding?
- Is there any uncertainty about the level of market interest?
- Is the desired outcome likely to involve significant business change?
- Is the business requirement unusual or novel?
- Is the solution to meet the business requirement likely to be complex or innovative?
- Is there a need to manage the market’s expectation of the project?

3.2 How to prepare?

You can follow the four steps depicted below to prepare for the engagement.



3.2.1 Prepare information to be shared and collected

You should start with gathering the information to be shared with suppliers. You can talk to the business / end users to understand the business problems and issues that they want to address. You can examine the existing contracts / products / services to identify room for improvement. You can brainstorm with colleagues to come up with some initial ideas that may possibly solve the problems before approaching the market. Sharing information with the suppliers may inspire innovative ideas to meet the business needs and requirements. Here is a list of information that you may need to gather before approaching the suppliers:

Areas	Information to be shared
Business needs and requirements	<ul style="list-style-type: none"> business needs and challenges current environment and constraints improvement opportunities expected business outcomes potential innovations that may meet the business needs and requirements
Timeframe	<ul style="list-style-type: none"> planned timetable in conducting market engagement planned timetable for procurement planned timetable in delivering the project
Scale of procurement	<ul style="list-style-type: none"> scale / coverage of the upcoming procurement opportunities for wider adoption of similar products / services

Apart from preparing a list of information to be shared, you should also prepare a list of information to be collected from the market rather than individual suppliers. You can evaluate the market from the feasibility, maturity, capacity and capability/willingness perspectives. There may be innovative offerings which are disruptive and even go beyond one's imagination, but they can bring substantial gains in business outcomes. To embrace innovation, departments should be open-minded about these offerings and consider adjusting their existing work

practices or operational flow where appropriate in order to adopt them to achieve greater effectiveness and efficiency in meeting with their business objectives. For promising solutions that may not be proven, proof-of-concept or trials could be conducted to assess their effectiveness in solving the business challenges as well as their practicability and implementation risks. This will help refine the implementation requirements and identify further room for business process re-engineering before proceeding with procurement in order to gain the full benefits of the innovative solutions.

Areas	Questions to consider when collecting information
Feasibility	<p>Whether the proposed requirement or outcome is achievable</p> <ul style="list-style-type: none"> • Is the market able to provide or develop a solution that can fully meet the requirement? If not, what will be the alternative solutions after adjusting the requirement? • Are there any innovative solutions in solving the business problems? Will the proposed requirement create any barrier to innovative solutions which can bring substantial gains in business outcomes? • If untested or relatively new technology or solutions are being proposed, what are the risks and how can they be managed (e.g. through trials or proof-of-concepts)?
Maturity	<p>Whether there is an established market to meet the requirement</p> <ul style="list-style-type: none"> • How many suppliers can provide what is required? • Is there a noticeable trend in the market? How is the market changing over time?
Capacity	<p>Whether the I&T sector can achieve what is required in terms of time and quantity</p> <ul style="list-style-type: none"> • Do the suppliers have sufficient capacity to meet the requirement? Do they have the requisite skills in sufficient quantity? • Can the suppliers deliver the required quantity and/or quality of products / services within the planned schedule? • Can the suppliers give a broad indication of the likely timeline?
Capability / Willingness	<p>Whether the I&T sector (whether through a single supplier, a prime supplier with multiple subcontractors) has the ability and is willing to deliver what is required</p> <ul style="list-style-type: none"> • Do the suppliers have the necessary means, technical competence, innovative proficiency, skills and resources to deliver the required products / services? • What are the risks involved? How can the suppliers manage the risks? • Have the suppliers conducted similar work elsewhere? • Are the procurement strategy and contractual arrangements being considered realistic? How could they be made to work better (e.g. splitting large contracts into smaller ones)? Can they attract start-ups and SMEs? • Are the suppliers interested in this opportunity? If not, why not?

Areas	Questions to consider when collecting information
	<ul style="list-style-type: none"> • Are there other better approaches or solutions that have not been considered? • Can the suppliers give an early indication of cost? Are there other approaches that would offer better value for money? <p>Note: The above considerations (e.g. experience, track record) should not be a barrier for adoption of new or innovative products/solutions, particularly those from start-ups and SMEs.</p>

3.2.2 Identify suppliers to be engaged

Pre-tender engagement focuses on the group of relevant suppliers in the I&T sector as a whole, rather than the merits of individual suppliers. It includes no element of supplier selection (short-listing or choosing suitable suppliers) or tender evaluation (assessing technical proposals and price). There is no commitment on either side.

Unless there is only a handful of relevant suppliers, it could be unmanageable or even impossible to engage all the suppliers in the market. You should adopt a pragmatic approach by engaging a proportionate number of potential suppliers in relation to the market size that can help inform the procurement arrangements. Where feasible and appropriate, you can give advance notices and invite participation in an open manner (e.g. through websites). As many innovative solutions and new technologies are offered by the start-ups and SMEs, it is advisable to engage them where appropriate. To obtain a balanced view of the market, you should try to involve a mix of key suppliers, new players, and start-ups and SMEs.

If you have sufficient knowledge on the market and suppliers, you may identify relevant suppliers for engagement directly. You can also seek assistance through the parties as listed in Section 6.1 to identify relevant suppliers for engagement.

Innovation Facilitators

The Electrical and Mechanical Services Department (EMSD) and the Office of the Government Chief Information Officer (OGCIO) act as innovation facilitators to support procuring departments in identifying suitable electrical and mechanical (E&M) and information technology (IT) products and services and to advise on suppliers' technical capabilities in meeting the needs of the procuring department.

EMSD provides assistance on an individual case basis to procuring departments throughout the process of incubation of ideas to large-scale deployment as deemed appropriate. EMSD assists procuring departments to build collaborative partnerships with the I&T sector, and identify and develop expertise on strategic enabling technologies. An online I&T collaboration platform "E&M InnoPortal"¹ has been developed for procuring departments to post their I&T needs for matching with the proposals received from the I&T sector. EMSD will identify the relevant

¹ See <https://www.emsd.gov.hk/inno>

proposals and liaise with the procuring departments for trial and development of suitable solutions as appropriate.

As for IT products and services, OGCIO sets up a Smart Government Innovation Lab to coordinate and facilitate the promotion of Smart Government². Through this lab, the industry including local start-ups and SMEs will be invited to put forward proposals on I&T applications and product suggestions for use in public services. The lab will also assist government departments to conduct research on innovative IT solutions on specific issues or problems encountered in their service delivery. Trials and technology testing will be conducted jointly with relevant government departments, thereby allowing government departments to effectively formulate innovative measures to improve public services.

With well-established network with the supplier and start-up communities, the two innovation facilitators will help source potential solutions from the industry that match with your business needs, select suitable ones for trials and Proof-of-Concept (PoC) as well as subsequent rollout in partnership with your departments.

Start-ups and SMEs

Organisations such as Hong Kong Science and Technology Park (HKSTP), Cyberport and co-working space operators maintain an extensive network of start-ups and SMEs. They can help identify relevant and capable start-ups and SMEs for procuring departments. Procuring departments can also reach out to the start-ups and SMEs through the one-stop co-ordination and professional support of the two Innovation Facilitators.

Some universities have established knowledge / technology transfer offices to facilitate the process of bringing R&D results to market. Students, alumni and professors from these universities have teamed up to form different technology start-ups. Approaching universities allows procuring departments to reach a network of start-ups with relevant expertise.

Organisations with public funding

The Government has set up five Research and Development (R&D) Centres to drive and coordinate applied R&D in selected areas and promote commercialisation of R&D results and technology transfer:

Organisations	Areas of expertise
Automotive Parts and Accessory Systems R&D Centre (APAS)	APAS has been active in collaborating with industrial partners and supporting SMEs to develop technologies for the local electric vehicle industry.

² Smart Government is one of the six focus areas under the Smart City Blueprint for Hong Kong promulgated in December 2017.

Organisations	Areas of expertise
Hong Kong Applied Science and Technology Research Institute (ASTRI)	ASTRI has been working closely with the industry on financial technologies, intelligent manufacturing (e.g. IoT, 3D scanning, etc.), next generation network (4G+/5G), health technology and smart city.
Hong Kong Research Institute of Textiles and Apparel (HKRITA)	HKRITA has continued to collaborate with local research institutes to develop new materials and advanced production technologies for the textiles and apparel industry.
Logistics and Supply Chain MultiTech R&D Centre (LSCM)	LSCM has undertaken industry-oriented research projects involving businesses and universities to develop core technological competencies and enhance efficiency in the logistics and supply chain industries.
Nano and Advanced Materials Institute (NAMI)	NAMI has driven commercialisation to support the development of new application for the industry, namely nanofiber technologies, nano-bubble technologies, germ-repellent technologies, ultra-flexible and super safe battery technology for wearable electronics and nanotechnology for skin care.

Apart from the above R&D centres, Hong Kong Productivity Council (HKPC) provides a multitude of services in technology transfer, consultancy, training and other support services in the areas of manufacturing technology, information technology, environmental technology and management systems.

Departments may seek help from these organisations to explore suitable solutions and suppliers for market engagement. You should be aware that some of these organisations or their partnering organisations can possibly be one of the potential bidders in the future procurement exercise and departments should carefully manage any perception of favouritism. To avoid conflict of interest, if procuring departments engage these organisations in drawing up tender specifications or assessment of tender proposals, the concerned organisations and their partnering organisations with potential conflict of interest should be barred from bidding, with such restriction made known to them before or at the time of engagement (i.e. not at the time of tender invitation).

3.2.3 Choose appropriate engagement activities

There is no standard process or sequence for conducting pre-tender engagement. It is up to you to design an engagement plan that can get the best results for the procurement you are working on. Where necessary, you can conduct various types of engagement activities for one or multiple rounds to obtain the necessary market information.

Pre-tender market engagement should be carried out in such a way that it will not hinder tender competition. All possible efforts should be made to preserve or establish a level playing field for the market players.

You can engage in different ways, such as telephone enquiries, written and face-to-face. Engaging suppliers in written form enables you to reach a wider number of suppliers and obtain more structured responses while face-to-face meeting allows more interactive and in-depth discussion.

Examples of engagement activities

Written

- Request for Information (RFI)

You can obtain more specific and structured information from the suppliers regarding the technology, products and services. The number of responses received and the information provided by suppliers allow you to understand the market and suppliers' interest in your project.

Face-to-face

- Trade Show

A trade show is an event that allows suppliers to showcase and demonstrate their products and services. You can have an opportunity to talk to many suppliers on one occasion to understand the market trend and available solutions.

Some government departments (e.g. Efficiency Office (EffO), EMSD and OGCI) and external organisations arrange regular trade shows focusing on a particular theme, technology or business area. You can watch out for the events organised by these parties and attend the trade shows relevant to your needs.

- Meeting with suppliers

Meeting with suppliers is the most straightforward way for procuring departments to collect information from the market and for the suppliers to raise questions and propose potential solutions in response to departments' business needs and challenges. While having group meeting with suppliers would ensure that they are provided with the same information, engaging with the supplier individually is the preferred way when you want to hear more innovative ideas and have more in-depth discussions. Not only are suppliers more likely to be more forthcoming in this way, doing so will also reduce any chance of them having to reveal commercially sensitive information with their competitors. Consideration should be given to whether inviting competing suppliers to meet together may increase the risk of collusion during the procurement process.

To keep abreast of the latest market situation, you can also meet with the suppliers in the I&T sector without any planned procurement on hand. You can take this opportunity to learn the market trend, the available technology and any industry-specific information.

- **Proof-of-Concept**

PoC is a realisation of a certain method or idea as suggested by a procuring department in order to demonstrate the technical feasibility. It allows you to explore and test new ideas or emerging technologies to verify whether some concepts or theories actually work or not.

- **Pre-tender Briefing**

You can hold a pre-tender briefing to give advance notice to the suppliers and arouse the interest of potential bidders. The briefing allows suppliers to ask questions and better understand your needs. Procuring departments may collect feedback on preliminary project parameters (e.g. scope of work, timeline and expected quality) and commercial arrangements (e.g. pricing model). The feedback obtained allows procuring departments to refine the procurement plan with a view to attracting quality and competitive tenders.

Choosing the engagement activities

Each type of engagement activities has its own characteristics as shown below:

Format	Engagement Activities	Characteristics
Written	RFI	<ul style="list-style-type: none"> • Can reach many suppliers but no guarantee on the number of responses and may be limited to those suppliers already known to the department if it is done on a selective basis • Can obtain more specific and structured information • Take days/ weeks to complete the engagement • Allow better documentation
Face-to-face	Trade Show	<ul style="list-style-type: none"> • Can reach many suppliers (including new ones) with specific technology/ from specific industry on one occasion • Require minimal effort from procuring departments • Opportunity to see a demonstration of solution / technology
	Meeting	<ul style="list-style-type: none"> • Allow in-depth and interactive discussion with identified suppliers • Opportunity to see a demonstration of solution / technology
	PoC	<ul style="list-style-type: none"> • Enable procuring departments to test new ideas and technologies • Require significant input from suppliers

Format	Engagement Activities	Characteristics
	Pre-tender Briefing	<ul style="list-style-type: none"> • Enable clarification of the tender requirements and aim to attract quality tenders before commencement of tendering process

In choosing the appropriate engagement activities to conduct, you can take account of the following considerations:

Factors	Considerations
Time	<ul style="list-style-type: none"> • When do you need the products / services? • How long can you afford to conduct the engagement?
Effort/ Resource	<ul style="list-style-type: none"> • What resources and manpower can you deploy for engagement? • How many suppliers do you want to engage? • Do you want to be exposed to new potential suppliers?
Level of Information	<ul style="list-style-type: none"> • Do you prefer structured response or interactive discussion? • Do you need brief facts or in-depth details? • Do you want to see a demonstration of solution / technology? • Do you want the suppliers to test the new ideas?

3.2.4 Prepare resources and people to be involved

You need to make sure sufficient resources are available for the whole engagement period. The resources include staff responsible for conducting the engagement, a suitable venue for holding the meeting or briefing, briefing materials on your project, sample data to be used for PoC, etc. You may also need to refine the question list to suit the chosen form of engagement activities.

3.3 How to conduct?

You can follow the three steps depicted below to conduct the engagement.



3.3.1 Explain engagement purposes to suppliers

As the pre-tender engagement is the first step to convey your procurement intention, it is important to create a trustworthy environment. When you approach the suppliers, you need to explain the purpose of the engagement at the outset. This includes what you intend to achieve through the engagement and how the engagement results will be used. In addition, you should also manage the expectation of the suppliers and avoid making any procurement commitments with the suppliers. You need to make it clear that the engagement exercise is not part of a tendering process and will not be used to short-list or select suppliers / products.

3.3.2 Invite suppliers to respond and manage the risks

Depending on the engagement activities you have chosen, you should share your project information and invite the suppliers to respond to your list of questions. Some best practices are provided in the table below:

Situation	Best practices
When you share information with the suppliers ...	<ul style="list-style-type: none"> • Make sure you provide the same information to all the suppliers and suppliers have equal access to information. You should draw up a list of the information (see section 3.2.1) that you want to share with the suppliers before meeting them. • If an answer to a question raised by a supplier would give that supplier a competitive advantage over the others, you must provide that information to other suppliers as well. • It is not advisable to release sensitive information to the suppliers. Nevertheless, should it be inevitable, a non-disclosure agreement (also known as a confidentiality agreement) should be signed beforehand. • Be particularly careful about competitors' commercially sensitive information being exchanged, either by their own initiative or inadvertently by the department. Doing so may dampen competition and cause suppliers to contravene the Competition Ordinance.

Situation	Best practices
When you collect information from the suppliers ...	<ul style="list-style-type: none"> • You may request suppliers to talk about their new ideas and solutions which are commercially sensitive. Commercially sensitive information includes the trade secrets and know how, innovative ideas, innovative solutions, intellectual property, pricing model, profit margins and market strategies. You must be aware that disclosure of such information may prejudice a supplier's commercial interests and harm competition. • Explain to the suppliers early in the engagement process that you will protect their commercially sensitive information. Ask them to clearly identify any information that they deem to be commercially sensitive if you are in doubt. Then ensure that you do not disclose that information to the supplier's competitors or use it without the supplier's prior consent. • If you are engaging the suppliers through written means (e.g. RFI), it is a good practice to ask the suppliers to indicate which parts of their responses are "commercial in confidence".

3.3.3 Keep proper documentation of the engagement process

The engagement process for a planned procurement exercise should be properly documented, including the participants, date and venue of the engagement activities and the gist of discussion. Sensitive information obtained (e.g. indicative cost and pricing model) from the suppliers should be kept in a secure manner and should only be accessed by authorised persons.

3.4 What are the expected outcomes?

Effective pre-tender engagement provides valuable information to make the subsequent procurement more focused and efficient. Procuring department can tap market insights on how best to meet a particular requirement or challenge it encounters, and collect information on available solutions and potential suppliers. Such engagement enables the procuring department to draw up the project requirements, formulate the procurement strategy and design contractual arrangement that can achieve better outcomes.

Suppliers interested in the procurement can benefit as well because they will get to know what the procuring department is going to procure. They can make early preparation for submission of proposals. Hence, pre-tender engagement can increase market interest, stimulate innovation and encourage market competition.

4 During Tender Engagement

4.1 Purpose

Engaging with the I&T sector during tender period provides an opportunity for the procuring departments to brief suppliers / potential bidders on the tender documents of complex, high risk and high value procurement, including the requirement details, expected outcomes, the specification and the evaluation criteria in marking scheme. It also allows suppliers to seek clarification about the tender.

4.2 How to prepare?

If you are going to organise a tender briefing, please include the details of the briefing (e.g. expected date, venue, no. of representatives allowed) and an enrolment form in the tender documents. You can also request interested suppliers to submit their enrolment form together with their questions on the tender document before a certain date. You should provide sufficient time for the suppliers to familiarise themselves with the tender document and make arrangements to attend the briefing (e.g. arranging people to fly from overseas).

In addition, you have to assign staff responsible for briefing the attendees, answering questions and taking notes.

4.3 How to conduct?

A tender briefing normally comprises two parts: a briefing session and a question and answer session. In the briefing session, you should limit the materials to the information already contained in the tender document. You should focus on the areas that need special attention from the suppliers. This enables the suppliers to have a better understanding of the project requirements, including the complexity and the perceived risk.

In answering the questions raised by the suppliers, you should, as far as possible, refer to the information already stated in the tender document. If you do not have an answer at the briefing, you can reply in writing afterwards. It is important that you keep proper record of the briefing, including the attendees, information that has been shared and any questions and answers.

If the briefing materials and answers to the questions raised by suppliers are not stated in the tender document, they should be provided to all the attendees as well as all the potential bidders after the briefing to ensure fair treatment to the suppliers. In case of open tender, this can be done by publishing the information on the website and sending a notification email to the enrolled suppliers. In case of restricted tender, the briefing materials should be sent to the invited suppliers. The information should be provided as soon as possible so as to allow sufficient time for the suppliers to clarify subsequent issues before tender close. To reduce the risk of collusion by bidders, opportunities for potential bidders to communicate with each other should be limited.

4.4 What are the expected outcomes?

Effective tender briefing deepens the suppliers' understanding of the tender requirements and enables them to decide whether they will participate in the tender exercise. Interested suppliers will have a better understanding on the needs of the procuring department and be more able to submit quality proposals.

5 Post-Tender Engagement

5.1 Purpose

Post-tender engagement helps you and suppliers to identify room for improvement in future tenders and demonstrate that your department is fair, transparent and accountable in tender evaluation and contract award.

SPR 347(e) provides that an unsuccessful tenderer is entitled to know the reasons why a tender was unsuccessful. SPR 390(b) further requires the procuring department to notify the unsuccessful tenderers of the reasons why their tenders were unsuccessful. However, in doing so, you must ensure that the details provided do not involve the tender information provided by another tenderer in confidence.

A debriefing can be conducted at the request from an unsuccessful tenderer. An effective debriefing helps the tenderers identify areas where they can improve in future tenders. It provides reasons why a tender was not successful and also explains how the tender performed against the evaluation criteria. Tenderers can also provide feedback on the tender exercise and put forward suggestions to improve future tender exercises.

Post-tender enquiries can also be conducted with other potential bidders to ascertain their reasons for not submitting bids in the tender exercise.

5.2 How to prepare?

Upon request from an unsuccessful tenderer, you should fix the date, time and venue of the debriefing. Separate debriefing session should be arranged for individual tenderer. The debriefing can be conducted by a team led by a senior officer from the procuring department. At least one team member should be from the tender assessment panel or should have assisted in tender assessment.

Each debriefing session should be carefully planned with due regard to the weaknesses and strengths of the tenderer's tender proposal. In general, discussion should be limited to the information submitted by the tenderer without comparison with other tender proposals. The discussion should focus on the issues / questions raised by the tenderer. Care should be exercised to demonstrate that judgments were made only against the evaluation criteria made known to the tenderer. Any information that would impede the law enforcement or otherwise be contrary to public interest or would prejudice the commercial interest of particular companies or might prejudice fair competition among the tenderers should not be released.

5.3 How to conduct?

To facilitate communication, the debriefing should be conducted as an informal discussion, not in writing. Nevertheless, the debriefing team should record the results and conclusions of the debriefings for internal reference in case follow-up actions are needed for improving the

process of similar procurements or debriefings. Such notes should not be sent to the tenderer and request for records of the debriefing or agreement on any notes prepared by either party should not be entertained. Voice / video recording by the tenderer should also be refused as it would hinder a free exchange of views and thus defeat the purpose of the debriefing. However, the tenderer is free to take notes.

You should inform the unsuccessful tenderer of the ground rules, e.g.

- the debriefing will be informal
- the tenderer will be informed of the perceived weaknesses and/or strengths of the tender proposal
- the merits of other tenderers / tender proposals will not be discussed
- the decision on the contract award is final thus debriefing session should not be taken as a means or an opportunity to lodge appeal or complaint against tender result
- voice / video recording during the debriefing will not be allowed
- request for records of the debriefing or agreement on any notes prepared by either party will not be entertained
- the tenderer is not allowed to use the information obtained during the debriefing for any judicial or administrative proceedings

Any request from an unsuccessful tenderer who fails to expressly agree or refuses to be bound by the ground rules should not be entertained. If necessary, a signed undertaking may be obtained from the unsuccessful tenderer beforehand.

You should also note the requirements in SPR 347 and 349 on disclosing tender information at post-tender stage:

Situation	Requirements
When you disclose tender information...	<ul style="list-style-type: none">• An unsuccessful tenderer is entitled to know the reasons why his tender was unsuccessful. However, departments should ensure that the details provided do not touch on the tender information provided by another tenderer in confidence (SPR 347(e)). Any information relating to another tenderer could only be provided with the express agreement of the tenderer in question (SPR 347(f)).• Under no circumstances should a department make available the following information to either a tenderer or a member of the public-<ul style="list-style-type: none">(a) minutes of tender board/ committee recording the deliberations made on a certain contract; and

Situation	Requirements
	(b) the method statement and plan proposed by the successful tenderer to execute the contract, the financial position and technical capability of a tenderer and any information provided in a confidential manner by a tenderer without the express agreement of the tenderer. (SPR 349)

5.4 What are the expected outcomes?

Effective post-tender engagement improves suppliers' understanding of the weaknesses and/or the strengths of their own tender proposals. It also enables them to have a better understanding of tendering and evaluation process. Procuring department can also collect feedback and improvement suggestions from suppliers.

6 List of Available Assistance

6.1 Contacts

Innovation Facilitators

EMSD	<p>Digitalisation & Technology Division - Inno-Office</p> <ul style="list-style-type: none"> Tel: 3757 6193 Email: inno@emsd.gov.hk Website: https://www.emsd.gov.hk/inno
OGCIO	<p>Smart Government Innovation Lab (to be launched in April 2019)</p> <ul style="list-style-type: none"> Tel: 3182 6731 Email: smartlab@ogcio.gov.hk Website: https://www.smartlab.gov.hk/

Start-ups and SMEs

HKSTP	<p>“Technologies from Science Park” Programme</p> <ul style="list-style-type: none"> Tel: 2629 1818 Email: enquiry.marketing@hkstp.org Website: https://techfromsp.hkstp.org/en-US/Directory/Index
Cyberport	<p>Partners Team</p> <ul style="list-style-type: none"> Tel: 3166 3735 Email: collaboration@cyberport.hk Website: http://www.cyberport.hk/en/about_cyberport/cyberport_partners/scope_of_services <p>iStartup@hk – One Stop Portal for Tech Startups</p> <ul style="list-style-type: none"> Website: https://istartup.hk Facebook: https://www.facebook.com/iStartupHK
OGCIO	<p>Smart Government Innovation Lab (to be launched in April 2019)</p> <ul style="list-style-type: none"> Tel: 3182 6731 Email: smartlab@ogcio.gov.hk Website: https://www.smartlab.gov.hk/

Organisations with public funding

APAS	<p>General Enquiry</p> <ul style="list-style-type: none"> • Tel: 2788 5333 • Email: apas_info@hkpc.org • Website: http://www.apas.hk/index.php
ASTRI	<p>Quick Contact</p> <ul style="list-style-type: none"> • Tel: 3406 2993 • Email: corporate@astri.org • Website: https://www.astri.org/
HKRITA	<p>Enquiry</p> <ul style="list-style-type: none"> • Tel: 2627 0180 • Email: corporate@hkrita.com • Website: http://www.hkrita.com/en-us/Pages/contactUs
LSCM	<p>Business and Projects Enquiry</p> <ul style="list-style-type: none"> • Tel: 2299 0551 • Email: tech-transfer@lscm.hk • Website: https://www.lscm.hk
NAMI	<p>Collaboration Opportunities Enquiry</p> <ul style="list-style-type: none"> • Tel: 3511 3487 • Email: bizdev@nami.org.hk • Website: http://www.nami.org.hk/en/nami/contact_us.html
HKPC	<p>Corporate Development Division</p> <ul style="list-style-type: none"> • Tel: 2788 5833 • Email: mediacentre@hkpc.org • Website: https://www.hkpc.org/en/technology-transfer

6.2 Enquiries on the guide

EffO	<ul style="list-style-type: none"> • Tel: 2165 7210 • Email: enquiry@effo.gov.hk • Website: http://www.effo.gov.hk/
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7 References

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UK Government-Department for Business Innovation & Skills of Bureau of Industry & Security (2011), Delivering Best Value through Innovation
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/32446/11-1054-forward-commitment-procurement-buying-innovative-solutions.pdf

Checklist on **Dos** and **Don'ts** in Market Engagement Pro-innovation Government Procurement

Introduction

This checklist is drawn up in consultation with the Independent Commission Against Corruption (ICAC), Competition Commission, and relevant bureaux/departments (B/Ds) including the Department of Justice (DoJ), Efficiency Office (EffO), Civil Service Bureau (CSB), and the Constitutional and Mainland Affairs Bureau (CMAB). It provides a general reference to B/Ds on issues-to-note in planning or conducting market engagement, and reminds B/Ds of the requirements set out under the relevant law and government rules and regulations which need to be complied with in the market engagement process.

This checklist aside, B/Ds are recommended to make reference to the following guidelines/publications in planning or conducting market engagement –

- “Guide to Engaging with the Innovation and Technology Sector” published by EffO
- “Civil Service Code” published by CSB (<https://www.csb.gov.hk/english/admin/conduct/1751.html>)
- CSB Circular No. 2/2004 on “Conflict of Interest”
- Civil Service Regulations 431 – 435 and 444 on acceptance of entertainment and advantages
- CSB Circulars No. 3/2007 on “Acceptance of advantages offered to an officer in his private capacity” and No. 4/2007 on “Advantages/entertainment offered to an officer in his official capacity and gifts and donations to a department for the benefit of staff”

Checklist on Dos and Don'ts in Market Engagement Pro-innovation Government Procurement

- “Booklet on Misconduct in Public Office” published by CSB (http://rcim.host.ccgo.hksarg/english/publications/publication_csb.htm)
- Code of conduct/integrity management manual and other in-house guidelines on conduct and discipline matters published by the respective B/Ds
- “Toolkit on Managing Declared Conflict of Interest for Civil Servants” published by ICAC
- Guidance on detecting bid rigging in tenders – “Getting the most from your tender” (https://www.compcomm.hk/en/media/reports_publications/files/Competition%20Com_E_PamphletPart%202.pdf) published by the Competition Commission
- “Guide to Competition Ordinance for Public Sector” (https://www.compcomm.hk/en/media/reports_publications/files/CC_GuideToCompetitionOrdinance.pdf) published by the Competition Commission
- Frequently Asked Questions and Answers for market research published by GLD (http://gld.host.ccgo.hksarg/gld/faq_proc/FAQ_for_Market_Research.pdf)

General Principles

Market engagement is not government procurement per se and is not bound by the Stores and Procurement Regulations (SPRs). That notwithstanding, for market engagement activities conducted for the pro-innovation government procurement, B/Ds are suggested to follow the basic procurement principles of open and fairness, transparency, pro-innovation and integrity. The “Dos” and “Don'ts” are drawn up having regard to these principles, the Government's obligations under the Agreement on Government Procurement of the World Trade Organization, and the best practices from the corruption prevention and competition perspectives.

Do	Don't
<i>Promote competition</i>	
<ul style="list-style-type: none"> plan ahead based on your business needs before you launch a market engagement exercise, including the reasonable number of market players to be engaged having regard to the market size. 	<ul style="list-style-type: none"> talk to the incumbent supplier or one potential bidder only.
<ul style="list-style-type: none"> adopt a consistent approach in engaging relevant parties. 	<ul style="list-style-type: none"> favour a particular market player.
<ul style="list-style-type: none"> conduct market engagement in a fair manner. Avoid practices that would have the effect of precluding competition. 	

Checklist on Dos and Don'ts in Market Engagement Pro-innovation Government Procurement

<ul style="list-style-type: none"> ● be transparent in inviting the market players as far as possible. Where feasible and appropriate, give advance notices and invite participation in an open manner (e.g. through websites). 	
<ul style="list-style-type: none"> ● review the Competition Commission's guidance on detecting bid rigging in tenders. B/Ds may refer to "Getting the most from your tender" and "Guide to the Competition Ordinance for the Public Sector". 	<ul style="list-style-type: none"> ● bring competitors together on a regular basis as it may facilitate them to share commercially sensitive information.
<ul style="list-style-type: none"> ● consider launching market engagements in a more structured way (e.g. Expression of Interests) for high value or mission critical procurement to obtain more specific information. 	
<ul style="list-style-type: none"> ● manage expectations. Make clear to the engaged parties that the engagement process is not part of any prequalification or tender exercise which should be subject to the procedures set out in the SPRs. 	<ul style="list-style-type: none"> ● make procurement commitment or undertaking to any engaged party.

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<i>Handling of information</i>	
<ul style="list-style-type: none"> ● share the same government information which is intended to be disclosed with all the engaged parties. ● ensure equal access to information by the engaged parties. ● if disclosure of any sensitive or confidential information is necessary, the parties to be engaged should be required to sign a non-disclosure agreement (also known as confidentiality agreement) to undertake not to further disclose such information. 	<ul style="list-style-type: none"> ● disclose “inside” or sensitive information possessed by the Government unless it is inevitable, authorised and fully justified.
	<ul style="list-style-type: none"> ● use the information collected from market engagement to draw up tender specifications that favour a particular market player. ● request potential supplier to suggest or prepare tender requirements for a subsequent procurement exercise.
<ul style="list-style-type: none"> ● properly classify the information obtained from market engagement. Put in place measures to keep commercially 	<ul style="list-style-type: none"> ● disclose commercially sensitive information without authority and prior consent from the information

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<p>sensitive information in a secure manner.</p> <ul style="list-style-type: none"> ● uphold the “need-to-know” principle in the access of classified information within the Government. ● handle requests for access to the information collected from the market engagement in accordance with the Code on Access to Information. 	<p>provider.</p>
<i>To uphold integrity</i>	
<ul style="list-style-type: none"> ● engage the market as a team as far as possible. This will facilitate common understanding of the market amongst subject officers on one hand, and mitigate corruption risks arising from one-on-one communications between a government officer and a market player. 	
<ul style="list-style-type: none"> ● record the engagement process and outcome, such as the officers involved, gist of exchanges, and any follow up actions taken after market engagement. 	
<ul style="list-style-type: none"> ● decline any gift or other advantage (as defined under the Prevention of Bribery Ordinance) offered by the engaged 	<ul style="list-style-type: none"> ● solicit or accept any advantages (as defined under the Prevention of Bribery Ordinance, including

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<p>parties in connection with or in the course of conducting market engagement.</p> <ul style="list-style-type: none"> ● if unavoidable, report to the approving authority for a decision on the disposal of the advantage. ● observe the requirements on accepting advantages offered to an officer in official or private capacity under Civil Service Regulations (CSR) 444 as well as CSB Circular Nos. 3/2007 and 4/2007. 	<p>money, gift, loan, free service, favour, or donation) from any parties involved in the course of market engagement activities.</p>
<ul style="list-style-type: none"> ● consider whether there is genuine operational need to accept an entertainment offered by any party in the course of market engagement. ● consider whether the entertainment offered is excessive, inappropriate and undesirable, and whether it would impose an obligation on the officer to return a favour, bring the Government into disrepute or lead to actual or perceived conflict of interest. If it is considered that the entertainment may contravene the above considerations, but the refusal thereof is considered not appropriate for reasons of courtesy or special circumstances, seek prior approval 	

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<p>from the relevant approving authorities.</p> <ul style="list-style-type: none"> ● keep the number of representatives of the Government accepting the entertainment to a minimum. ● avoid taking part in dubious lucky draws when attending social functions with any party involved in market engagement which could compromise your integrity. ● observe the requirements on solicitation and acceptance of entertainment under CSRs 431-435 and CSB Circular No. 4/2007. 	
<ul style="list-style-type: none"> ● avoid any actual, potential or perceived conflict of interest at the outset. ● if unavoidable, declare the conflict as promptly as possible. ● follow the management's decision on the actions to be taken to mitigate the risk. ● observe the requirements on conflict of interests under CSB Circular No. 2/2004, and make reference to the guiding 	<ul style="list-style-type: none"> ● give any relatives, friends or associates any preferential treatment. ● abuse the powers, discretions or duties exercisable by virtue of your official position.

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principles/measures under ICAC's "Toolkit on Managing Declared Conflict of Interest for Civil Servants" in managing conflict of interest declared or revealed.	
● observe the requirements on report of criminal offences including corruption-related offences under CSB Circular No. 7/2012.	

Enquiries

For enquiries/advice on –

- (a) corruption prevention matters, please contact the Corruption Prevention Department (CPD) of ICAC;
- (b) civil service conduct and discipline matters, please contact Chief Executive Officer (Conduct & Discipline) at 2810 3493 or Senior Executive Officer (Conduct & Discipline)1 of CSB at 2810 3185;
- (c) the Code on Access to Information, please contact Senior Executive Officer (Constitutional and Mainland Affairs) 4 of CMAB at 2810 2562; and
- (d) competition matters, please contact the Competition Commission at 3462 2118.