

LCQ2: Tendering arrangements for public works projects

Following is a question by the Hon Lau Kwok-fan and a reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (June 23):

Question:

Last month, the Development Bureau submitted a paper to give an account of the significant deviations between the accepted tender prices (successful bid prices) of 22 capital works contracts awarded in the fourth quarter of last year and the sums allowed in the Approved Project Estimates for such contracts. The successful bid prices concerned accounted, on average, for only 70 per cent of the sums allowed, and the relevant percentages for three of the contracts were even less than 60 per cent of the sums allowed. On the other hand, some contractors have relayed that the social incidents and the epidemic have caused delays in works and rise in costs. This situation, coupled with the recent surge in the prices of construction materials, has left such contractors in misery. In this connection, will the Government inform this Council:

(1) given that the causes as set out in the aforesaid paper for the significant deviations include that "this is due to keen competition under prevailing market conditions, which resulted in lower rates in the returned tenders", whether it has assessed if this situation will cause contractors to "deliver poorer-quality works at lower prices" or hire illegal workers in order to cut costs, or result in non-delivery of the projects due to the contractors' failure to make ends meet;

(2) apart from adopting a "two-envelope two-stage" tender approach, whether the Government will consider setting standards for "reasonably low bid prices" and excluding the tender with the lowest bid price from the evaluation of price proposals, so as to avoid vicious competition due to extremely low prices; if so, of the details; if not, the reasons for that; and

(3) in the light of the impacts of the epidemic on works projects, whether the Government will, apart from allowing contractors a longer construction period, provide them with other assistance; whether it will, by making reference to the Mainland authorities' practice of reasonably sharing out with contractors the risks of price fluctuations in respect of the costs of municipal works projects, consider providing subsidies to the contractors to help them meet the extra expenses arising from the price escalation of construction materials?

Reply:

President,

The Government has been adopting the principles of "achieving best value for money" and "maintaining open and fair competition" in the tender exercises of public works contracts, which are conducted according to clear guidelines and well-established procedures. On tender evaluation, we do not adopt "the lowest bid wins" as the assessment criterion. Apart from considering the tender prices, we will also examine tenderers' technical competence and past performance during tender evaluation. In general, tender evaluation of public works contracts comprises two parts. First, we will assess tenderers' technical competence and past performance, followed by considering their tender prices. Depending on the nature of the works, the weighting of technical score is generally 40 per cent of the overall score, which will be increased to 50 per cent for highly complex projects. After summation of the technical and price scores, the tender with the highest overall score will be recommended for acceptance. To protect the public interest, we will also assess the financial capability of the tenderer with the highest overall score and the reasonableness of its bid, so as to ensure that the successful tenderer is fully capable of completing the works in accordance with the terms of the contract. For tenders with unreasonably low prices, even if they obtain the highest overall scores, they will not be recommended for acceptance. The above-mentioned tender evaluation method not only follows the public finance principles, but also enables us to select competent contractors to undertake the works. In fact, Hong Kong has been amongst the top-rank cities in the world in respect of infrastructure competitiveness over the years, which reveals that our tender evaluation system has been effective.

Our responses to the questions raised by the Hon Lau Kwok-fan are as follows:

(1) Over the eight quarters from 2019 to 2020, the average accepted tender prices for major capital works contracts with value exceeding \$30 million, excluding term contracts and projects with tendered prices known before seeking funding approval, are around 81 per cent of the sums allowed in the Approved Project Estimates for such contracts (Sums Allowed). As far as the fourth quarter of 2020 is concerned, the accepted tender prices, on average, are around 77 per cent of the Sums Allowed. As regards the three works contracts mentioned by the Member, we have examined the situations in detail during tender evaluation and considered the tender prices reasonable.

Notwithstanding the above, works departments will closely monitor the works during the construction stage to ensure that contractors will comply with all the contract requirements. If the performance of a contractor is not satisfactory, the works department will urge it to make improvements and reflect this in its performance report. If the unsatisfactory situation persists, the works department will follow the Development Bureau's Contractor Management Handbook and relevant guidelines to take regulating actions against the contractor, including temporary suspension from tendering or even removal from the lists of approved contractors for public works. According to the works departments, there has been no problem with the

contractor's performance in the three works contracts mentioned above. The works departments will continue to monitor closely the contracts concerned.

â€‹(2) As I just said, clear guidelines have been in place to assess and exclude tenders with unreasonably low bid prices under our current tender evaluation mechanism. This will ensure the quality and capability of the successful bidders and avoid contract default or other risks due to inadequate tender prices. In assessing whether a tender price is reasonable or not, we will consider several factors, including (1) comparison of the tender price with those of other bidders, the estimated contract value and the recent price of the same type of works; (2) comparison of the tender prices of the major types of works in the contract with the market prices; and (3) whether the tender has adopted a bidding strategy with a "front-loaded" cash flow. If the works department considers the tender price unreasonably low, which may affect the bidder's capability to fulfill the contract requirements or even pose a risk of contract default, the department will not accept the tender.

â€‹As there has been a mechanism to ensure that unreasonably low tender prices will not be accepted, we have no plan to impose a requirement to exclude the tender with the lowest bid price in tender evaluation across the board.

(3) On the impact of the epidemic on the local construction industry, I would like to briefly elaborate the concerted efforts of the Government and the construction industry, as well as the relief measures that the Government has implemented. Over the past year or so, we have launched a number of relief measures under the two rounds of the Anti-epidemic Fund, to support the construction sector. Such measures include provision of direct subsidies to construction workers and construction-related enterprises, introduction of the "Employment Support Scheme" for the construction sector, etc. and a total of \$6.3 billion has been disbursed. In addition, the Development Bureau and works departments have jointly created more than 6 500 time-limited jobs to give impetus to the labour market. Also, we have increased the quotas for graduate trainees and summer interns by 250 and provided subsidies for employers to employ about 2 100 graduates and assistant professionals. This year, we will continue to provide about 3 000 time-limited jobs, recruit 100 more summer interns, and subsidise private enterprises to employ about 1 700 graduates and assistant professionals. Moreover, the Labour and Welfare Bureau will increase the quota of the Engineering Graduate Training Scheme to 500.

â€‹For public works contracts, in addition to granting extension of time for completion due to the adverse impact of the epidemic, we have also offered advance payments to contractors of on-going and new works contracts to ease their cash flow problem. Over the past year or so, a total of \$2 billion advance payment has been made in over 280 public works contracts. The measure has been well received by the construction industry as it can effectively relieve the contractors' cash flow problems. As regards Member's concern about fluctuation in prices of the construction materials, there has been a mechanism in place for typical works contracts to allow adjustments of

labour and materials prices. We follow the changes of the labour and materials price indices and adjust payments to the contractors upward or downward thereby reducing the contractors' risk in respect of price fluctuations.

â€‹Thank you, President.