

Drainage Services Department
Technical Circular No. 5/99

**Guidelines to prevent and to deal with problems associated
with unreasonable high rates in Bills of Quantities**

INTRODUCTION

There have been a few occasions in DSD where the final contract sum of our works contract ended up substantially greater than the original contract sum due to the over pricing of a few under-estimated items in the Bills of Quantities (BQ). The under-estimations were all in respect of the quantities inserted in the Bill at the time of tender. The increase in contract sum was purely the result of these under-estimated quantities being substantially increased at the end of the contract. Since the requirement, character and nature in the performance of these works have not been changed throughout the contract, the rates inserted by the contractor, albeit exceedingly high, were left unaltered as the current form of our contract will not allow them to be changed. Clearly, these situations could have been avoided if sufficient care had been taken in the tender preparation stage particularly in the preparation of the BQ, the method of measurement, the taking-off process as well as during the tender assessment when unusual high rates were detected. This circular serves to provide some procedural guidelines in the tender preparation and evaluation processes in an effort to prevent similar problems from re-appearing.

PREPARATION OF BILLS OF QUANTITIES

2. In general, the Standard Method of Measurement (SMM) should be followed in the preparation of the BQ. If it is necessary to amend the method of measurement, a Particular Preamble (PP) to that effect should be prepared and included in the BQ in accordance with Rule 10 in Part III of the SMM.
3. Prior approval for the incorporation of any special method of measurement which deviates from the SMM, as well as any drawings clarifying or defining the method of measurement, should be obtained from the Chief Engineer of the Division concerned. Such request and approval must be properly minuted and documented in the project file for future reference.
4. Any drawing indicating a deviation of the method of measurement from the SMM should be cross-referenced in the PP.

5. Before a decision is made for the incorporation of any deviation from the SMM, thorough consultation must be obtained from the officers responsible for the preparation of the BQ, such as the officers in the Quantity Surveying (QS) Section of that particular Division. Once a decision is made, the Project Engineer should confirm such modified method of measurement in writing with the QS Section. Close liaison between the design team and the taking-off team should be maintained to ensure mutual understanding of the document and any deviations introduced.

6. A pre-tender checking system should be introduced in the preparation of the BQ. The project Senior Engineer (SE) or the Project Engineer (not the officer who actually prepared the quantities) should make a bulk check on the quantities of the cost significant items (items which carry significant implication on contract expenditure) in the BQ against the tender drawings and should also identify any missing item. The SE should draw up a list of the cost significant items taking into consideration the size of the contract, the value of the items, the likelihood of future changes to the relevant item and to allow sufficient time in making such checks. Any mistake found out in the checking should be rectified before the issue of the tender document or relevant tender addenda should be issued before tender closing. No tender should be allowed to proceed without undergoing this quality assurance procedure. The tender check list as required by the PAH Chapter 6, Appendix 6.2 should include the statement "Compliance with DSD Technical Circular No. 5/99" and quote the file reference in the section of procedure completed. Submission to the Committee to Update and Review Estimates (CURE) must also include a similar statement.

TENDER EVALUATION PROCEDURE

7. The Project Engineer responsible for tender evaluation should check carefully whether there is any item priced unreasonably high. If any of such item is found, a quick run through the calculation of the quantities for these items should be carried out to see if the quantities had been accurately estimated/prepared. If the quantities had been under-estimated and/or missing items would be valued based on any unreasonable high prices, an evaluation of the financial effect on the contract should be reported to the Chief Engineer for a suitable decision. If the situation so warrants, a re-tendering exercise should be considered and recommended for endorsement by the respective Assistant Director in charge of the project.

8. Project Administration Handbook chapter 6, paragraph 6.11, requires that any peculiarities surrounding the tender exercise or any other matter which may have a bearing on the award of the tender must be brought to the attention of the tender board and this includes irregularities in the pricing.

9. Works Bureau Technical Circular No. 24/98 also indicates the procedure to be followed in the examination of tender prices and rates (paragraph 8 in Appendix A of the WBTC).

10. To assist tender evaluation, it is advisable to request the tenderer to provide a written explanation for any unit rates which are considered unreasonably high or low. If the quantities of the concerned items are expected to be changed substantially after the award of the contract and the effect of which will affect the position of the tender, instead of re-tendering as mentioned in para 7, the project officer should also consider negotiation with a view to reaching a reasonable rate with the tenderer for the valuation of any future changes in quantities of the relevant item. If this is considered necessary, prior approval must be obtained from the respective tender board and the relevant procedure in the Stores Procurement Regulations should be followed.

11. In any event, due care must be taken in our correspondence with the tenderer which must not be construed in such a way that the tenderer is being invited to withdraw its tender.

12. The written explanation referred to in paragraph 10 is a non-standard provision under the tender evaluation procedure laid down in WBTC No. 24/98. A standard special condition of tender has been drafted and subject to any modification needed to meet specific needs, this shall be included in the tender document. This inclusion is subject to approval of the responsible Assistant Director and where necessary, depending on the prevailing policy guidelines, endorsement from Works Bureau.

CONTRACT ADMINISTRATION

13. The Engineer designate should be made aware of any items in the BQ which have been priced unreasonably high before the commencement of the contract. Variations involving these items should be considered carefully to avoid over-expenditure since the contract only allows contract rates to be used as the basis of valuation for works of similar nature.

14. A possible way to curb over-expenditure due to the application of unreasonable high rates is to omit the relevant items completely. However, depending on the extent and nature of the omitted works, this may carry other contractual implications leading to breach of contract by the Employer. Any omissions of this nature should be seriously considered and referred to SE/CA and LAD/WB for advice before they are instructed.

CONTRACTS MANAGED BY CONSULTANTS

15. The above guidelines are modelled under the procedure for the administration of contracts handled by in-house officers. Where contracts are handled by consultants, officers responsible for consultant management should make sure that these guidelines are also observed by the consultants. Whilst it is not the Department's intention to dictate the working method of the consultants, the consultants shall be asked to observe the requirements of the relevant government circulars in force and this one in particular at the time of the consultants' appointment. The need for any proposed amendment to the SMM, measurement checking procedure and tender evaluation procedure shall be identified by the consultants and approval of these amendments shall be in accordance with the appropriate government circulars in force. The consultants shall confirm compliance with this circular in their submissions to this Department.

16. The project officers should ensure that the consultants have addressed any item priced unreasonably high and that they have been dealt with in accordance with the requirements of this circular.

ENQUIRIES

17. Enquiries on this Circular should be directed to the Senior Engineer/Contract Adviser.



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Special Condition of Tender

Additional information on unit rates or prices

- (a) In the course of tender assessment, tenderers may be requested by the Engineer designate to provide written explanation or clarification on certain unit rates or prices entered by the tenderers. The tenderer shall provide such information within 7 working days from the request of the Engineer designate. Failure to provide the relevant information may invalidate the tender.
- (b) The information provided under this clause shall be used for the purpose of tender assessment and shall not form part of the Contract.