

NEC Asia-Pacific Users' Group Conference

# Subcontracting in HKSAR's NEC3 Target Cost Contracts



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# Subcontracting in HKSARG's NEC3 Target Cost Contracts

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# Overview of DSD's NEC3 Contracts

Contract / Agreement No.	Contract / Agreement Title	Contract Sum	Nature	Start / Completion	NEC Contract
DC/2008/02 <i>Consultant</i>	Improvement of Fuk Man Road Nullah in Sai Kung	\$76M	Nullah Decking	Aug 2009 / May 2012 (C)	<b>ECC Option C</b>
DC/2012/09 <i>Consultant</i>	Pak Hok Lam trunk sewer and Sha Tau Kok village sewerage	\$203M	Village sewerage	June 2012 / Aug 2016	Framework + ECC Option B
DC/2012/03 <i>In-house</i>	Happy Valley underground stormwater storage scheme	\$678M	Flood prevention	Sept 2012 / Apr 2018	<b>ECC Option C</b>
DC/2012/05 <i>Consultant</i>	Yuen Long and Kam Tin Sewerage	\$160M	Village sewerage	Sept 2012 / Sept 2016	<b>ECC Option D</b>
DC/2012/07 <i>Consultant</i>	Lam Tsuen village sewerage	\$173M	Village sewerage	Oct 2012 / Jan 2016	<b>ECC Option B</b>
DC/2012/01 <i>In-house</i>	Building and Civil Maintenance to DSD plant and facilities	\$160M	Maintenance	Dec 2012 / Nov 2016	<b>TSC Option A</b>
DE/2013/05 <i>In-house</i>	E&M Facilities for Sewage Pumping Stations	\$18.5M	E&M	Mar 2014 / Sep 2015	<b>ECC Option C</b>
CE 63/2013 <i>Consultant</i>	Drainage Improvement Works in Happy Valley	\$8.9M	IDC Consultancy	Apr 2014 / mid 2019	<b>PSC Option G</b>



# Achievements

## **First NEC3 Contract in the Government**

*DC/2008/02 Improvement of Fuk Man Road Nullah in Sai Kung*

## **First NEC3 E&M Works Contract in the Government**

*DE/2013/05 E&M Facilities for Sewage Pumping Stations*

## **First NEC3 Professional Services Contract in the Government**

*CE 63/2013 Drainage Improvement Works in Happy Valley*





# Comparisons of NEC3 and Traditional GCC

Contract No.	DE/2010/18	DE/2013/05
Form of Contract	Traditional GCC for E&M	NEC3 ECC Option C
Scope of E&M works (similar order of handling capacity)	4 nos. of sewage pumping stations	2 nos. of sewage pumping stations
Contract Sum	HK\$35 M	HK\$ 18.5M
Target Completion Date	June 2015	September 2015

Allow for comparisons on: -

1. Time;
2. Cost; and
3. Quality

**WAIT and SEE !!**



# Conditions adopted in NEC3 Contracts

## *ECC Cl. 26 Subcontracting*

Contractor to submit:

- (1) Conditions of contract for each subcontract; and
- (2) Name of proposed Subcontractor

for PM's acceptance

- ? Cost of work by subcontractor is reimbursable
- ? Contractor may have no incentive to selective most competitive offer

# Subcontracting in NEC3 Target Cost Contracts of HKSARG



Z clauses requires –

Contractor to procure subcontracts by competitive  
Tendering – Stores and Procurement Regulation of  
HKSARG

Probity, anti-collusive tendering clauses apply to  
Subcontracts

Additional Conditions of Contract (ACC)

ACC C9: **Subcontract conditions**

ACC C10: **Tender requirements for subcontracting**



# Control Mechanism for Defined Cost (DC)

ECC/ACC Clause	Cost Component	Brief Details of Control Mechanism
ECC 52.1		a) Costs excluded from DC treated to be included in Fee; b) DC includes only amounts at open market or competitively tendered prices with deductions for all discounts, rebates & taxes which can be recovered
ACC C10 & ECC 52.1	Subcontractors	<b>ACC C10 – controls subcontract tendering to ensure fair and competitive tender process (Also subject to <i>Contractor's</i> subletting procedures accepted by <i>PM</i>)</b>
ACC C12 & ECC 52.1	Plant & Materials (P&M)	ACC C12 – requires a competitive procurement process proposed by <i>Contractor</i> and accepted by <i>PM</i>
ECC 52.1	Costs other than Subcontractors and P&M	





# Tender requirements for Subcontracting: ACC C10 (1)

Contractor's estimate	Tender Requirements			
	No of tenderers	Contractor to submit estimate to PM for acceptance	Contractor to submit details of tenderers to PM for acceptance	Select conforming tender with lowest tender price
Not exceed HK\$ 50,000	Tender invitation not required			
Exceeds HK\$ 50,000 and not exceed HK\$ 200,000	Not less than 1	No	Yes	Yes
Exceeds HK\$ 200,000 and not exceed HK\$ 300,000	Not less than 5	No	Yes	Yes
Exceeds HK\$ 300,000 and not exceed HK\$ 4,000,000	Not less than 5	Yes	Yes	Yes
Exceeds HK\$ 4,000,000	Not less than 5; Note 1	Yes	Yes	Yes

**Note 1: from List of Approved Contractors for Public Works or contractors who possess experience in the works or technically competent for the works to be subcontracted.**

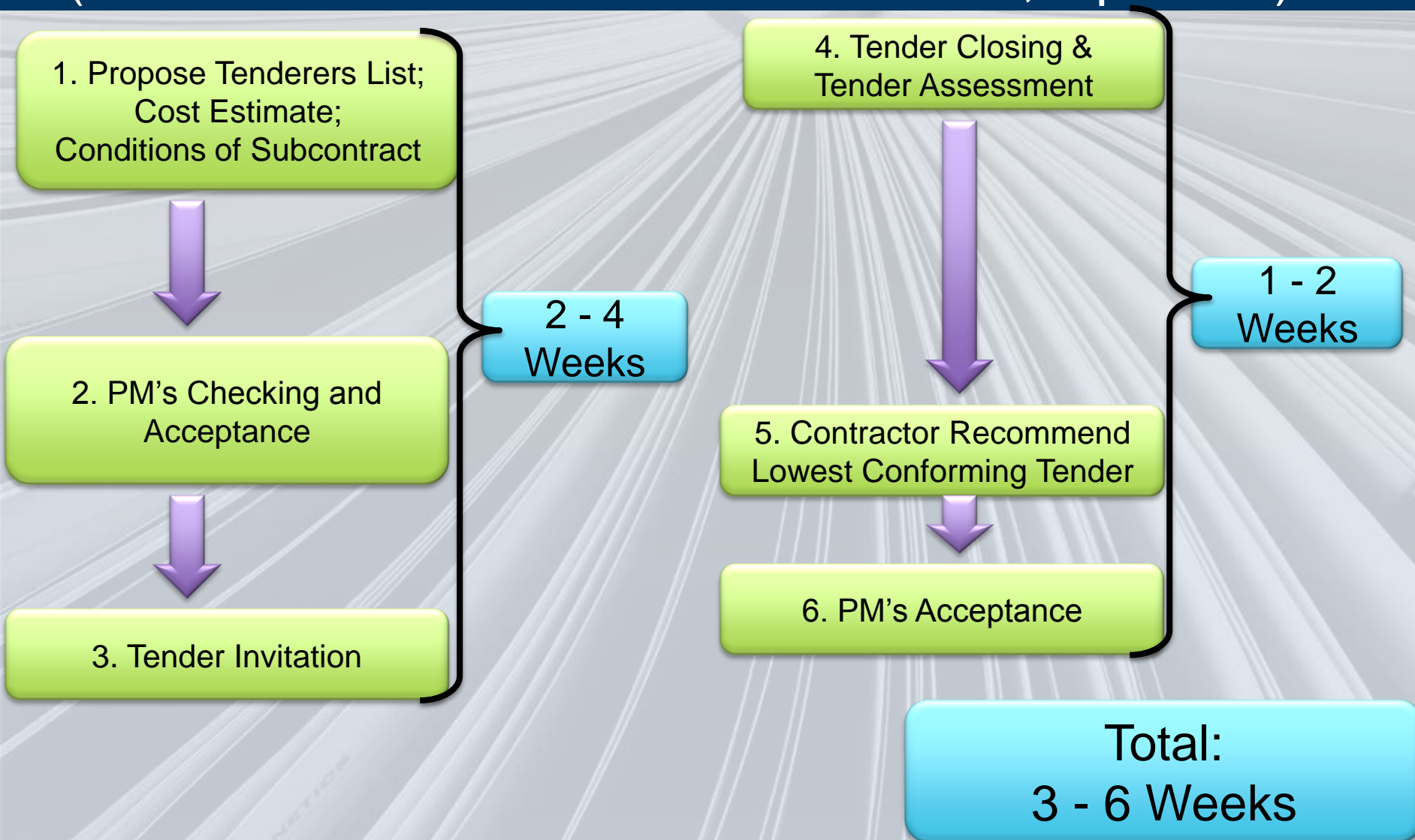


# Change in Subcontract Tender Requirements

Subcontract estimates				Tenderer Requirement
DC/2008/02		DC/2012/03		
Fuk Man Road		HVUSSS		
Upper limit	Lower Limit	Upper limit	Lower Limit	
\$5,000	\$0	\$50,000	\$0	exempted
\$10,000	\$5,000			exempted for urgent works
\$50,000	\$5,000	\$200,000	\$50,000	invite more than one tenderer
\$300,000	\$50,000	\$300,000	\$200,000	invite not less than five tenderers
\$3,000,000	\$300,000	\$4,000,000	\$300,000	submit estimates for PM's acceptance
				invite not less than five tenderers
	\$3,000,000		\$4,000,000	submit estimates for PM's acceptance
				invite not less than five tenderers
				tenderer from List of Approved Contractor or contractor who are technically competent with document evidence. (for HVUSSS only)

# Subcontract Tender Procedure in ACC10

(E&M Works Contract No. DE/2013/05, Option C)





# Subcontract Tender Procedure in ACC10

(Civil Works Contract No. DC/2012/03, Option C)







# PM's and PMR's Roles

- to accept tender estimates and tenderer list;
- to comment on tender document;
- to attend tender opening;
- to attend tender interview;
- to accept Contractor's recommendation



	<\$50,000	\$50,000-\$300,000	\$300,000-\$4M	>\$4M	Total
Subcontract Package (DC/2012/03)	36	12	20	14	82
Subcontract Package (DE/2013/05)	0	0	4	1	5

over 180 Tender Interview for 46 packages!

# Main Contractor's Concerns

Ensure adequate competition

Cost saving

Shortlist capable subcontractor

Minimize idle time

Reduce risk



*Mr. Project Manager*  
(Ricky LI)

Engage familiar or trusted subcontractor

My Subcontract Why Bother?



*Mr. Contractor*  
(W H LUK)

# Subcontractor's Concerns

Pay when paid

Lower risk for you

Design clarification

Minimize speculation

Tender addendum



*Mr. Project Manager*  
(W H LUK)

Any  
benefits?

Why are you  
present in the  
tender interview?



*Mr. Subcontractor*  
(Ricky LI)





# Pains and Gains

## Pains

- Change – practice and mindset
- Require more time resources from *Project Manager* and *Supervisor, Contractor and Sub-contractor*





# Pains and Gains

## Gains

### **Risk Reduction**

- Tender interview – design clarification, minimize speculation, tender addendum
- Better cash flow for subcontractor – pay when paid
- Repackage of subcontracts to optimize synergy among main contractor and subcontractor of different trades



# Pains and Gains

## Gains

### **Time-saving**

- Minimize disputes during construction period, and thus avoid the time required for disputes resolution

### **Cost Reduction**

- Competitive tendering

### **Better Quality**

- Better quality control with direct involvement with subcontractor



THANK YOU!

