

Regulatory Framework for Opening, Operating and Closing a Business

Disclaimer: Any information rendered in this document is for general references only and should not be considered as legal advice. Users are strongly advised to seek independent legal advice if they are in doubt of their legal position.

Market Competition - Public Procurement

No.	Regulatory Framework	Link
<i>Pre-tendering phase</i>		
1.	The standard bidding documents containing sustainability clauses in all model documents	➤ Memo on Green Government Buildings
2.	Requiring procuring entities to perform the following tasks when estimating the contract value of a new procurement opportunity in all public tenders: <ul style="list-style-type: none"> • Carry out a market analysis • Conduct a feasibility study • Use historical data from similar tenders 	➤ Chapter III, Stores and Procurement Regulations ➤ Chapter 1 - Project Planning and Chapter 4 - Project Design and Estimates, Project Administration Handbook for Civil Engineering Works
<i>Tendering phase</i>		
3.	Establishing open procurement as a default method for tendering a contract without exception	➤ Chapter III, Stores and Procurement Regulations
4.	Designating specific tendering procedures for innovation procurement	➤ Chapter I, Stores and Procurement Regulations ➤ Development Bureau Technical Circular (Works) No. 3/2014 Contractors' Designs and Alternative Designs

No.	Regulatory Framework	Link
5.	Providing incentives for preparing bids with environmentally-friendly components	<ul style="list-style-type: none"> ➤ Development Bureau Technical Circulars (Works) No. 4/2014 Tender Evaluation Methods for Works Contracts ➤ Environment and Ecology Bureau Circular Memorandum No. 1/2021 Green Procurement in the Government ➤ Chapter III, Stores and Procurement Regulations
6.	Setting general quantifiable environmental targets for procuring entities to achieve through procurement projects	
7.	Mandating specific environmental standards in the specifications for goods, services, and works in all public tenders	
8.	Providing a list of accepted eco tags that procuring entities can use in their bid documents	
9.	Not imposing participation or award restrictions on foreign firms	<ul style="list-style-type: none"> ➤ Chapter I, Stores and Procurement Regulations ➤ Article IV, World Trade Organisation Agreement on Government Procurement
10.	Not requiring foreign firms to have partnerships with domestic firms to be eligible to participate in a tender	
11.	Not requiring foreign firms to own (fully or partially) subsidiaries in the domestic economy to be eligible to participate in a tender	
12.	Not reserving specific contracts exclusively for local firms or citizens	
13.	Prohibiting splitting contracts for the purpose of circumventing thresholds for open tendering	<ul style="list-style-type: none"> ➤ Chapter III, Stores and Procurement Regulations

No.	Regulatory Framework	Link
14.	<p>The following documents need to be made publicly available for all contracts:</p> <ul style="list-style-type: none"> • Annual procurement plans • Tender notices • Tender documents (project specific) • Award decisions 	<ul style="list-style-type: none"> ➤ Chapter III, Stores and Procurement Regulations ➤ Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works ➤ Forecast of Major Government Purchases
15.	<p>The following documents need to be made publicly available for all contracts:</p> <ul style="list-style-type: none"> • Contracts • Contract amendments 	<ul style="list-style-type: none"> ➤ Standard Contract Documents ➤ New Engineering Contract - Engineering and Construction Contract Documents
16.	<p>Setting a minimum timeframe between advertisement of a tender notice and a submission deadline for all procurement procedures</p>	<ul style="list-style-type: none"> ➤ Chapter III, Stores and Procurement Regulations ➤ Paragraph 2.4, Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works
17.	<p>Communicating answers to all bidders for clarification requests from potential bidders required</p>	<ul style="list-style-type: none"> ➤ Chapter III, Stores and Procurement Regulations ➤ Paragraph 5, Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works

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18.	Establishing the following for all procurement procedures: <ul style="list-style-type: none"> • Process for identifying abnormally low bids that allows to interact with the bidder prior to exclusion • Objective and quantifiable criteria to identify abnormally low bids 	<ul style="list-style-type: none"> ➤ Paragraph 6.21, Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works ➤ Article XV:6, World Trade Organisation Agreement on Government Procurement
19.	Requiring bidders to prepare their bids based on the following principles for high-value procurement: <ul style="list-style-type: none"> • Project life cycle cost • Total cost ownership 	<ul style="list-style-type: none"> ➤ Chapter I, Stores and Procurement Regulations ➤ Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works
20.	Explicitly recommending the preference to use most economically advantageous tender criteria over lowest price criteria for all procurement procedures	
21.	Including the following: <ul style="list-style-type: none"> • Gender-specific provisions that promote gender equality in public procurement • Exclusion grounds for firms that have violated gender equality obligations 	<ul style="list-style-type: none"> ➤ Cap. 480 Sex Discrimination Ordinance

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22.	Requiring firms to demonstrate adherence to the following: <ul style="list-style-type: none"> • Principle of equal pay during tender procedures • Gender non-discrimination 	➤ Cap. 480 Sex Discrimination Ordinance
23.	Outlining a designated procedure for awarding contracts based on a framework agreement	➤ Chapter 8 - Term Contract Works, Project Administration Handbook for Civil Engineering Works ➤ Chapter III, Stores and Procurement Regulations
24.	Call-off contracts within a framework agreement awarded through a competitive second stage for all types of procurement	➤ Chapter III, Stores and Procurement Regulations
25.	Providing shorter payment deadlines for small and medium-sized enterprises	
26.	Including financial guarantee exemptions as a preferential treatment approach for small and medium-sized enterprises	
27.	Including subcontracting requirements or incentives as a preferential treatment approach for small and medium-sized enterprises	
28.	Including designation by threshold as a preferential treatment approach for small and medium-sized enterprises	➤ Section 2.2 Group Tender Limits, Contractor Management Handbook
29.	Allowing for the division of contracts into lots	➤ Chapter III, Stores and Procurement Regulations

No.	Regulatory Framework	Link
30.	Mandating communication of an award decision to all bidders for all procurement procedures	<ul style="list-style-type: none"> ➤ Chapter III, Stores and Procurement Regulations ➤ Paragraph 7.4, Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works
31.	Mandatory standstill period between the public notice of award and contract signing to allow unsuccessful bidders challenge the decision	<ul style="list-style-type: none"> ➤ Paragraph 2.4, Chapter 6 - Tender Procedure, Project Administration Handbook for Civil Engineering Works
<i>Post-tendering Phase and Challenges</i>		
32.	Establishing a timeframe within which a procuring entity must process a payment once an invoice is received for all contracts	<ul style="list-style-type: none"> ➤ The Government Tendering Process, Guide to Procurement ➤ Chapter 7 - Contract Management, Project Administration Handbook for Civil Engineering Works
33.	Designating a specialized and independent authority to receive procurement challenges filed by firms on decisions issued by the procuring entities	<ul style="list-style-type: none"> ➤ Article XVIII, World Trade Organisation Agreement on Government Procurement
34.	Aggrieved bidder with the right to appeal decisions on challenges made by the authority that receives procurement challenges	<ul style="list-style-type: none"> ➤ Chapter I, Stores and Procurement Regulations ➤ Order 53, Cap. 4A The Rules of the High Court
35.	Legal recourse for an aggrieved bidder experiencing delays in either challenge or review processes for all types of challenges	<ul style="list-style-type: none"> ➤ Order 53, Cap. 4A The Rules of the High Court

Public Services that Facilitate Trade

[Including services provided by government bureaux and departments, and other public organisations]

Disclaimer: There are other digital public services that aim to facilitate business and compliance in Hong Kong. Please refer to the webpages of individual bureaux / departments / public organisations for details.

Market Competition - Public Procurement

No.	Public Services	Link
<i>eProcurement Platforms</i>		
1.	Operational central electronic public procurement (e-procurement) platform in Hong Kong SAR, China	➤ Doing Business with the Government
2.	<p>The centralized e-procurement platform supporting the following fully digitized features:</p> <ul style="list-style-type: none"> • Completing the vendor registration process online • Accessing notices on procurement opportunities online • Accessing bidding documents online • Asking a procuring entity for clarifications • Submitting all components of tenders online • Submitting bid security online with electronic validation 	➤ Doing Business with the Government ➤ e-Tendering System (Works Contracts) of the HKSAR Government ➤ Procurement and Contract Management System

No.	Public Services	Link
	<ul style="list-style-type: none"> • Conducting the bid opening procedure online • Virtual workspace to manage tender procedures, including operative tools for members of the evaluation committee • Effective notifications for decisions of procurement authorities (such as clarifications, awards, contracts, and other relevant milestones) delivered through online means • Accessing award decisions, including their rationale • Submitting performance guarantees online with electronic validation • Accessing contracts that have been awarded • Accessing contract amendments • E-catalogue of approved suppliers • Green catalogues • E-contract management and implementation module • Receiving payments from the procuring entity 	

No.	Public Services	Link
	<ul style="list-style-type: none"> Access to specifications, standards, or criteria for eco-labels and environmentally preferable goods and services 	
3.	Features supported by the central e-procurement portal available for procurements of goods, works, and services	➤ Doing Business with the Government
4.	<p>Public data portal providing open access to the following information in machine readable format:</p> <ul style="list-style-type: none"> Data on tenders (including description, dates, category of spending, estimated value, contracting authority, and identification of bidders) Data on suppliers 	<ul style="list-style-type: none"> ➤ Contracts awarded in the last 12 months ➤ Open Tenders issued via e-Tender Box (ETB) of Government Logistics Department ➤ Number of suppliers in the supplier lists as at 31 December ➤ Contract Award Notice ➤ List of Public Works Contractors