

Procedures of Food and Health Bureau and Development Bureau for engaging contractors to build a quarantine centre

Investigation Report

On 27 February 2020, this Office received a complaint against the Food and Health Bureau (“FHB”). After examining the information at hand, we decided to include the Development Bureau (“DEVB”) as another organisation under complaint.

The Complaint

2. The Complainant alleged that FHB had engaged Company A to build a quarantine centre at Penny’s Bay on Lantau Island (“the Construction Project”) at the price of 190 million dollars without conducting any open tender exercise. The quarantine centre, which was scheduled to be completed and commence operation in May 2020, would provide 100 isolation units.

3. The Complainant considered that as there were other similar contractors in the market and the Construction Project involved huge profits, FHB’s action of single tender had violated the Stores and Procurement Regulations (“the Regulations”) which the Government had to follow for procurement and it was a serious impropriety.

Our Findings

4. Having examined the information and explanation provided by FHB, this Office decided to conduct a full investigation on 18 June 2020. As FHB indicated that DEVB was responsible for the construction of and related tendering procedures for the Penny’s Bay Quarantine Centre on Lantau Island, we decided to include DEVB as another organisation under complaint. After scrutinising all the relevant information, we completed the investigation on 13 July and our findings will be elaborated as follows.

Consolidated Response from FHB and DEVB

5. FHB consulted DEVB and gave this Office the following consolidated reply.

6. Involving a novel coronavirus, Coronavirus Disease 2019 (“COVID-19”) is highly infectious and the infection situation has been changing rapidly. To combat the pandemic, it is important for the Government to arrange patients confirmed or suspected

to be infected to receive treatment in isolation in hospitals. It is also important to place asymptomatic close contacts at risk of contracting the virus under mandatory quarantine at quarantine centres. Close contacts include individuals who have had close contact with confirmed cases or have visited high risk areas in the past 14 days.

7. The health condition of individuals at quarantine centres can be effectively monitored. This can ensure that those who show COVID-19 symptoms will be sent to the hospital for treatment promptly, thus preventing spread of the disease in the community.

8. Since the end of January 2020, the pandemic situation had worsened in Hong Kong and countries all over the world. Demand for quarantine facilities surged as a result of emergent confirmed local cases, a sharp increase in imported cases, an increase in the ratio of close contacts to confirmed cases, Hong Kong residents returning from Hubei Province and Diamond Princess Cruise Ship, as well as immediate evacuations of individuals for investigation of confirmed cases. As holiday camp units suitable for quarantine purpose were limited in supply, and the existing quarantine centres were often fully utilised, the Government faced an urgent need to build more quarantine facilities in a short period of time and had endeavored to identify suitable sites since late January.

9. Apart from using existing facilities as quarantine centres, the Government spotted several sites suitable for alteration and addition to provide more quarantine camps, among which a piece of unallocated Government land at Penny's Bay was intended for building about 800 units in two phases. Meanwhile, the Government was building temporary quarantine camps at Lei Yue Mun Park and Holiday Village, Sai Kung Outdoor Recreation Centre and Junior Police Call Permanent Activity Centre.

10. Given the tight schedule for completing a large number of quarantine facilities to tackle the aggravating pandemic, the departments concerned had to start construction works and procurement once the funding was granted. Hence, contractors (and their subcontractors) possessing all relevant experience and capability (including land formation, infrastructure and Modular Integrated Construction) were directly engaged in accordance with the Regulations to undertake the land formation, infrastructure and construction works for some of the quarantine facilities.

11. In early February 2020, DEVB and the works departments concerned, with the support of FHB, followed the established procedures and applied for a grant of 1.1

billion dollars from the Lotteries Fund to cover the non-recurrent expenses for the construction of quarantine camps. After obtaining the support of the Lotteries Fund Advisory Committee and the approval by the Financial Secretary, DEVB instructed the Civil Engineering and Development Department (“CEDD”) to commence the site formation and infrastructure works for building quarantine camps on the Government land at Penny’s Bay so that the first 100 units and their ancillary facilities could be completed in early May.

12. Having examined the prevailing procurement procedures for works contract and taken into account the pressing schedule, CEDD considered it necessary to directly engage a contractor in order to complete the relevant works quickly. If the Department invited tenders for the works, the tendering and assessment procedures would generally take four to five months to complete. Even if such procedures were streamlined in case of emergency, it would still require at least two months before the works could commence. Given that the construction stage would take three months or more, the relevant quarantine facilities could only be ready for use after six months, making it difficult to address the pandemic situation and needs for quarantine at that time. Therefore, direct engagement of contractor was the only feasible way to ensure prompt completion of works.

13. CEDD had also sought legal advice on direct engagement of contractors for the relevant works and confirmed that such practice was appropriate in case of emergency. Hence, CEDD underwent the procurement for the works contract and engaged the suitable contractor in accordance with the Regulations. The relevant works commenced on 17 February 2020 and the first phase completed in late April, providing quarantine camps necessary for containment of the pandemic.

Our Comments

14. FHB and DEVB had explained in detail that, with the rapidly changing pandemic situation of COVID-19, the Government had to provide a large amount of quarantine facilities within a short period of time. The schedule for the relevant works was therefore very tight. Having sought legal advice, the Government directly engaged the contractor according to the requirements of the Regulations so that the quarantine centre could be completed the soonest possible to combat the pandemic. We considered FHB and DEVB’s direct engagement of the contractor for the Construction Project in this case justified and appropriate.

15. In view of the above, The Ombudsman considers this complaint **unsubstantiated.**

Office of The Ombudsman
July 2020