

Report No. 43 of the Director of Audit — Chapter 2

ENGINEERING CONSULTANCIES FOR NEW TOWN AND URBAN AREA DEVELOPMENT

Summary

1. The Government acquired professional services to assist it in the development of new towns/major urban areas through a number of consultancy agreements. Many of these consultancy agreements were executed before 1991, with some dating back to the 1970s (hereinafter referred to as the old consultancy agreements). The then Territory Development Department (TDD) was responsible for managing the old consultancy agreements. With the merging of the TDD and the Civil Engineering Department in July 2004, the new Civil Engineering and Development Department (CEDD) has assumed the role of managing these old consultancy agreements. In 2003-04, the expenditure for the old consultancy agreements was \$206 million (including \$83.4 million for consultancy fees and \$122.6 million for the personal emoluments of resident site staff).

Payment terms of old consultancy agreements

2. *Shortcomings of the basic scale fees.* Under the terms of the old consultancy agreements, the consultants are primarily paid basic scale fees which are linked to the cost of works. In 1989, the Government found that there was disincentive for a consultant to produce an economical design, when the consultancy fee was linked to the cost of works. This was because the more time a consultant spent on pursuing an economical design, the less would be the cost of the works constructed and hence his fee. Since 1991, the Government has required that for new consultancy agreements, consultants are paid fixed lump sum fees independent of the cost of works. For the ongoing old consultancy agreements, the risk of uneconomical design warrants the management's close monitoring.

3. *Contractor's alternative designs.* According to a report of the TDD in 1989, one of the means of determining the prevalence of uneconomical design was to consider the extent of alternative design subsequently prepared by contractors. Based on a sample check of three old consultancy agreements, the Audit Commission (Audit) found that there were instances of alternative designs proposed by the contractors. By adopting the contractors' alternative designs, significant savings of \$75.3 million were achieved. This indicated that there were cheaper alternatives to the consultants' original designs. As the Government would only get a share of the cost saving arising from contractors' alternative designs after contract award, in August 2004, the Environment, Transport and Works Bureau issued a technical circular stating that to achieve best value for money, alternative designs should, as

far as possible, be considered during the design and the tendering stages. *Audit has recommended that the Director of Civil Engineering and Development should step up the checking of the consultants' designs to ensure that the objective of economical design is met.*

4. ***Resident site staff on-cost.*** The Government has to pay the consultants on-costs for the consultants' administration of the resident site staff. The on-cost rates for the old consultancy agreements were fixed at 25% of staff salaries and gratuities, whereas consultants of the new consultancy agreements are required to bid for the on-cost rates in their tenders. Recent surveys showed that market forces have lowered the on-cost rates. The rates were between 5.1% and 14.9% in 2001, and between 3.2% and 8% in 2004. These rates were substantially lower than the 25% on-cost rate used under the old consultancy agreements since 1996. *Audit has recommended that the Director of Civil Engineering and Development should explore ways to speed up the completion of the old consultancy agreements.*

Winding up of old consultancy agreements

5. ***The 1996 initiative.*** Since 1991, it has been the government policy to select consultants on the basis of both technical and fee competition. However, the consultants of the old consultancy agreements were enjoying the more favourable scale fee without competition. In 1996, in a review of the old consultancy agreements, the TDD found that, while the majority of the basic infrastructure of some of the new towns had been completed, the consultants were still asked to carry out work for the remaining development and newly identified projects within the new town boundary. The TDD Headquarters then instructed the development offices to review the old consultancy agreements under their control and consider ways to wind them up as soon as practicable.

6. Up to May 2004, the TDD had wound up 22 old consultancy agreements. There are 12 ongoing old consultancy agreements. Five of the twelve agreements are expected to be completed within the next two years, but the completion dates of the remaining seven agreements are uncertain. *Audit has recommended that the Director of Civil Engineering and Development should explore ways to facilitate the early completion of the seven old consultancy agreements.*

7. ***Scope of work of consultancy agreements.*** Audit found in a sample check of the consultancy agreement for the Sha Tin Development that, without seeking competitive tendering, the TDD had awarded some investigation work outside the scope of the agreement to the Sha Tin Consultant. In so doing, the TDD had not sought the prior approval of the Engineering and Associated Consultants Selection Board (EACSB) to extend the scope of the agreement. *Audit has recommended that the Director of Civil Engineering and Development should seek the prior approval of the EACSB to extend the scope of an existing consultancy agreement, if there are special circumstances necessitating the use of an existing consultant to provide services which are outside the scope of the agreement.*

Phasing of works for fee calculation

8. According to the EACSB Handbook, for the development of a new town which usually spans over a number of years, there may be justification for separating the works into phases and calculating the consultancy fee separately for each phase. As the percentage charges of the basic scale fee under the old consultancy agreements decrease with the increase in the cost of works (with a certain threshold), the total consultancy fee would be higher if the works are divided into phases for fee calculation. The phasing of works should therefore be applied with due care in accordance with the agreement terms and the EACSB's guidelines.

9. Audit found in a sample check of the old consultancy agreements that there were instances of improper phasing of works for fee calculation, resulting in the overpayment of fees of about \$2.1 million. *Audit has recommended that the Director of Civil Engineering and Development should carry out detailed checks of the fee calculation of the old consultancy agreements to ensure that phasing of works is consistent with the agreement terms and the EACSB's guidelines.*

Design and contract stage fee

10. A consultant is not entitled to the design portion of the design and contract stage fee for works which he has no design input, such as entrusted works designed by other departments. Audit found in a sample check of the consultancy agreement for the West Kowloon Development that the West Kowloon Consultant had been overpaid about \$100,000 design fee for a culvert which was designed by the Drainage Services Department. *Audit has recommended that the Director of Civil Engineering and Development should check whether there is any overpayment of design fee to which a consultant is not entitled and take recovery action as appropriate.*

Response from the Administration

11. The Administration has accepted the audit recommendations.

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