

RULES AND REGULATIONS FOR INCLUSION OF CONTRACTORS AND SUPPLIERS BY ITALIAN TRADE AGENCY – HONG KONG (“ITA-HK”) (“GUIDELINE”)

ITA-HK regularly procures goods and services from external contractors and suppliers, whether by acquisition, lease, rental, appointment, employment or otherwise (“**Procurement**”). This Guideline:

- (a) is formulated for the purposes of regulating, and ensuring the fairness and impartiality, in the Procurement process;
- (b) sets out the procedures for the enrolment of contractors and suppliers who wish to be listed on ITA-HK’s list of approved contractors/suppliers (“**List**”); and
- (c) sets out rules and regulations applicable to contractors and suppliers on the List.

1. DEFINITIONS

For the purposes of this Guideline, the following definitions and interpretations shall apply.

- 1.1. “**Goods**” means all types and categories of articles, including furniture, equipment, tools, machineries and other products.
- 1.2. “**Services**” means all types and categories of services, including professional advisory services, advertisement and commercial promotion, exhibition and trade fairs.
- 1.3. References to “**tender invitation**” and “**tender**” include a request for quotation and a quotation in response to such request.

2. LIST OF CONTRACTORS/SUPPLIERS

- 2.1. Contractors/suppliers must be enrolled on the List in order to participate in any Procurement and be considered for any contract with ITA-HK (“**Contract**”).
- 2.2. Contractors and suppliers on the List are classified into the following 5 categories (“**Categories**” and each a “**Category**”) based on the type of Goods and/or Services they provide:

Category A: ORGANIZATION OF EXHIBITION AND TRADE FAIRS

Category B: SUPPLY OF OFFICE EQUIPMENT

Category C: FURNITURES AND TOOLS/MACHINERIES FOR OFFICE

Category D: CONTRACTORS SERVICES AND RENOVATION

Category E: CONSULTANCY SERVICES AND ADVISORY

3. REQUIREMENTS FOR INCLUSION ON THE LIST

To be considered for inclusion on the List, contractors/suppliers must satisfy the following criteria:

- 3.1. It is legally established according to the applicable laws and regulations of the jurisdiction in which it is registered;
- 3.2. It holds a valid Business License / Business Registration Certificate issued by the applicable authority in every jurisdiction in which it operates;
- 3.3. It has the ability to independently bear civil liability;
- 3.4. It has a good commercial reputation and sound financial accounting systems;
- 3.5. It maintains a good record of paying taxes and social insurance in accordance with the applicable laws and regulations;
- 3.6. It has no record of material violations with respect to its business activities in the past five years;
- 3.7. It has never been condemned in any court of law and is not aware of any criminal investigation against it, including for tax reasons;
- 3.8. It has not been subject to investigation by any enforcement agency or tax authority and has not engaged in any conduct that would give rise to sanctions under international, national or local laws;
- 3.9. It is in compliance with all laws, statutes, and regulations applicable to the Goods and/or Services which it provides;
- 3.10. It is not subject to bankruptcy or similar proceedings;
- 3.11. It is not aware of the existence of, and has not concealed any information which may give rise to, any of the grounds for excluding it from public procurement procedures under European Union or Italian laws as set out in the attached Schedule;
- 3.12. It has the necessary experience, equipment and professional and technical skills required to provide the relevant Goods and/or Services;
- 3.13. It possesses all licences, permissions, authorisations, consents and permits, and all required insurance coverage (including general liability coverage, employee's compensation insurance and any other insurance required by any applicable law or regulation) needed to provide the relevant Goods and/or Services;
- 3.14. It respects and observes all relevant labour and employment laws and regulations;

- 3.15. It has not breached any contracts with ITA-HK in the past five years; and
- 3.16. It complies with other criteria stipulated in relevant laws and/or administrative regulations (if any).

4. APPLICATION FOR INCLUSION ON THE LIST

- 4.1. Contractors/suppliers who meet the requirements specified in Article 3 of this Guideline may apply to ITA-HK, at any time, to be included on the List.
- 4.2. Applicants shall submit their application by sending the completed application form (obtainable from <https://www.ice.it/en/markets/china/hong-kong/work-us>), attaching the required supporting documents listed in Article 5 below ("**Application Form**") by e-mail to hongkong@ice.it.
- 4.3. As an Italian governmental agency, ITA-HK is required to ensure that all its contractors/suppliers meet the strict requirements for inclusion on the List. Accordingly, the completed Application Form must be accompanied by a declaration made by a director of the applicant before it is submitted to ITA-HK.
- 4.4. Submission of the Application Form to ITA-HK does not automatically lead to the applicant being included on the List. The enrollment of contractors/suppliers on the List is subject to the sole and absolute discretion of ITA-HK.
- 4.5. Applications received by ITA-HK will generally be examined and processed within 30 days from the date of receipt. Should there be any missing or incorrect information in the Application Form, ITA-HK may require the applicant to resubmit it.

5. REQUIRED SUPPORTING DOCUMENTS

- 5.1. **For individual applicants:**
 - (a) Valid ID document, such as ID Card or passport;
 - (b) Curriculum Vitae, including information such as education background, relevant experience, professional skills and certificates; and
 - (c) References from previous employers, customers and/or clients of the applicant in the last three years.

5.2. For corporate applicants:

- (a) Valid company registration documents, such as Business License / Business Registration Certificate and Certificate of Incorporation;
- (b) Relevant professional certificates;
- (c) Specific licences, permissions, authorisations, consents and permits needed to provide the Goods and/or Services;
- (d) References from two previous customers and/or clients of the applicant in the last three years; and
- (e) Valid ID document, such as ID Card or passport, of the director of the applicant signing the Application Form.

5.3. For exhibition/trade fair booth contractors/suppliers: Applicants who are in the business of setting up exhibition/trade fair booths are required to provide details of exhibition/trade fair booths set up by the applicant in the last three years, including references, technical specifications, photographs and materials used.

5.4. ITA-HK reserves the right to request any other additional information or supporting documents when necessary.

6. TENDER AND SELECTION OF CONTRACTORS/SUPPLIERS

6.1. Contractors/suppliers on the List do not have the exclusive right to receive any tender invitation from ITA-HK, or any right or expectation that they must receive such invitation. Tender invitations will be issued to contractors/suppliers on the List as and when opportunities arise based on pre-determined criteria and by rotation to ensure fairness, taking into account, among others, the following considerations:

- (a) the number of contractors/suppliers on the List in the relevant Category;
- (b) the existence of ongoing Contracts and the performance of the selected contractors/suppliers under those Contracts;
- (c) the benefits of continuing with a previous contractor/supplier in respect of the same Goods and/or Services;
- (d) the responsiveness of contractors/suppliers to previous tender invitations; and
- (e) the technical, professional, economic, financial or other expertise required of contractors/suppliers for a particular Contract.

- 6.2. Neither a contractor/supplier's inclusion on the List, nor receipt of a tender invitation, implies that ITA-HK recognises that the contractor/supplier has the necessary fitness, propriety or capability for entering into a Contract. The suitability of a contractor/supplier will be assessed on a case-by-case basis according to the terms of the tender invitation issued by ITA-HK.
- 6.3. ITA-HK reserves the right to suspend, not to proceed or to cancel any tender invitation exercise or amend its tender invitation at any time without prior notice.
- 6.4. Any interest (whether financial, professional, commercial, personal or otherwise) that a contractor/supplier may have which conflicts or competes, or may be seen to conflict or compete, directly or indirectly, with any interest of ITA-HK and/or with any of the duties of the contractor/supplier under a Contract shall be declared in its tender. Any involvement or interest declared would be carefully considered, but would not necessarily debar the contractor/supplier from being further considered in the selection process.
- 6.5. Warning against bribery:
 - (a) Contractors/suppliers and their directors, officers, employees, agents and contractors shall not offer, solicit or accept any sum of money, reward, favour or advantage, whether directly or indirectly, which would impair their impartiality in relation to the tender.
 - (b) The offer of an advantage in Hong Kong to a foreign public official as an inducement to or reward for his doing or forbearing to do any act in relation to his public duties is an offence under the Prevention of Bribery Ordinance (Cap. 201, Laws of Hong Kong). Any such offence committed by a contractor/supplier or any of its directors, officers, employees, agents and contractors will render its tender null and void.
 - (c) Contractors/suppliers shall take all necessary measures to ensure that their directors, officers, employees, agents and contractors are aware of the prohibitions in this Article 6.5.
- 6.6. Tenders must be prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person, including regarding price, bid submission procedure or any terms of the bid. In the event of any breach of this Article 6.6 by any contractor/supplier, ITA-HK reserves the right to invalidate the bid submitted by that contractor/supplier and seek damages.
- 6.7. ITA-HK reserves the right to disqualify a contractor/supplier on any of the grounds for exclusion from public procurement procedures under European Union or Italian laws as set out in the attached Schedule.
- 6.8. ITA-HK reserves the right, at its absolute discretion, not to engage any contractor/supplier on the List which has submitted a tender in response to a tender invitation for the whole or any part of the Goods and/or Services being procured.

- 6.9. Submission of a tender shall be made on the understanding that ITA-HK will not be liable to pay any costs arising out of or incidental to the preparation, submission or clarification of any tenders.
- 6.10. ITA-HK is under no obligation to discuss the assessment or result of any tenders with any persons.
- 6.11. ICE-HK will not be bound to select any contractor/supplier on the basis of the lowest price or fee quoted. ITA-HK reserves the right to negotiate with any contractor/supplier at its absolute discretion.
- 6.12. If a contractor/supplier is selected for provision of Goods and/or Services to ITA-HK, ITA-HK will issue an offer letter to the selected contractor/supplier.
- 6.13. The award of a Contract by ICE-HK shall be subject to the selected contractor/supplier providing a statutory declaration made under the Oaths and Declarations Ordinance (Cap. 11, Laws of Hong Kong) by its director, declaring before a Justice of the Peace/Notary Public/Solicitor/Commissioner for Oaths that it meets the requirements specified in Article 3 of this Guideline.
- 6.14. Personal data required to be provided in a tender shall be governed by the following regulations, in accordance with the Personal Data (Privacy) Ordinance (Cap. 486, Laws of Hong Kong):
 - (a) All personal data provided in a tender will be used by ITA-HK for the purposes of tender invitation and all other purposes arising from or incidental to it (including for the purposes of tender evaluation, Contract award, and resolution of any disputes).
 - (b) By submitting a tender, a contractor/supplier is regarded to have agreed to, and to have obtained from each individual whose personal data is provided in the tender, his or her consent for the collection and use by ITA-HK of the personal data for the purposes set out in Article 6.14(a) above.
 - (c) An individual to whom personal data belongs has the right to request access to and correction of his or her personal data.
 - (d) Enquiries concerning the personal data collected by means of the tender invitation, including requests for access and corrections, should be addressed to the Personal Data Privacy Officer of ITA-HK at privacy@ice.it.

7. UPDATE OF CONTRACTOR/SUPPLIER INFORMATION

- 7.1. Contractors/suppliers on the List shall notify ITA-HK in writing of any change to their information within 30 days of such change by email to hongkong@ice.it. Failure to do so within the specified time may result in such contractor/supplier being removed from the List.
- 7.2. Contractors/suppliers on the List will be requested by ITA-HK to update their information periodically, and upon such request, they shall provide to ITA-HK in writing their updated information within 30 days.

8. PERIODICAL REVIEW

- 8.1. ITA-HK shall conduct periodical performance reviews of any contractor/supplier on the List from time to time.
- 8.2. Any contractor/supplier on the List may be removed from the List at any time without prior notice and without compensation.

9. EVALUATION OF SELECTED CONTRACTORS/SUPPLIERS

- 9.1. Selected contractors/suppliers who have provided Goods and/or Services to ITA-HK will be evaluated by ITA-HK based on a score out of 5 (1 = poor; 2 = unsatisfactory; 3 = satisfactory; 4 = good; 5 = excellent).
- 9.2. Different criteria will be used by ITA-HK in its evaluation of selected contractors/suppliers depending on the Category of the Goods and/or Services provided.
- 9.3. If a contractor/supplier on the List has been selected in relation to more than one Procurement, a separate evaluation will be conducted for each Procurement by ITA-HK.
- 9.4. ICE-HK will take into account the average of a selected contractor/supplier's scores in deciding future selections for the supply of Goods and/or Services to ITA-HK.

10. TEMPORARY REMOVAL FROM THE LIST

- 10.1. A contractor/supplier on the List may be temporarily removed from the List by the director of ITA-HK, whose decision shall be final and conclusive, without prior notice and without compensation if:
 - (a) it receives a score of under 3 in respect of any Procurement, for a period of between 6 months and 1 year;
 - (b) it is involved in any litigation or arbitration against ITA-HK, until such proceedings are concluded;

- (c) it fails to provide any necessary information required by ITA-HK; and/or
 - (d) it delays in delivering any Goods and/or Service under any Contract.
- 10.2. A contractor/supplier on the List who has been temporarily removed from the List may be reinstated to the List if the reason for their temporary removal no longer applies.

11. PERMANENT REMOVAL FROM THE LIST

- 11.1. A contractor/supplier on the List may be permanently removed from the List by the director of ITA-HK, whose decision shall be final and conclusive, without prior notice and without compensation if:
- (a) it receives a score of under 3 in respect of any Procurement;
 - (b) it has been temporarily removed from the List at least 3 times over the past 3 years;
 - (c) it is responsible or liable for any breach of Contract;
 - (d) it no longer meets the requirements specified in Article 3 of this Guideline;
 - (e) it has failed to provide any required supporting documents listed in Article 5 of this Guideline, or the supporting documents provided contains false and/or misleading information;
 - (f) it fails to pass a periodical review by ITA-HK according to Article 8 of this Guideline;
 - (g) its representations and warranties given to ITA-HK is proved to be false and/or misleading in any material respect;
 - (h) it is found to have committed any misconduct;
 - (i) it has failed to update its information in accordance with Article 7 of this Guideline for 2 years; and/or
 - (j) it has failed to respond to, or negotiate in good faith with ITA-HK on, at least 3 tender invitations by ITA-HK without reasonable excuse over the past 2 years.
- 11.2. If a contractor/supplier is permanently removed pursuant to Articles 11.1(i) or 11.1(j) of this Guideline, such contractor/supplier may apply to be reinstated to the List after the expiry of 2 years from the date of the permanent removal.

12. DISCLAIMER

- 12.1. All tender invitations are issued on an “as is” basis without express or implied warranty of any kind. In particular, no warranty regarding accuracy, reliability, non-infringement, completeness, security, timeliness, fitness for a particular purpose or freedom from computer viruses is given in connection with any such invitation.
- 12.2. ICE-HK and its employees and agents disclaim all liability for any loss, damage or expense arising from any inaccuracies of, errors in, or omissions from any tender invitation. ITA-HK and its employees and agents will not be liable to any person including any contractor/supplier whether in contract or in tort or otherwise for any damages whatsoever, including without limitation any direct, general, special, incidental or consequential damages arising from or in connection with any decision, action or non-action based on or in reliance upon any such invitation or failure to receive any such invitation, or arising from or in connection with a contractor/supplier being removed from the List.

13. THIS GUIDELINE

- 13.1. This Guideline supersedes and replaces any and all prior guidance, rules and/or regulations on the subject matter, whether oral or written.
- 13.2. The right to interpret and determine the applicability of all Articles of this Guideline shall rest solely with ITA-HK.
- 13.3. This Guideline is subject to amendment at the sole and absolute discretion of ITA-HK. Any amendments will be published on the website of ITA-HK and/or separately notified to contractor/suppliers.

Dated: 03 March 2021

Schedule Exclusion Grounds

ITA-HK reserves the right to disqualify a contractor/supplier on any of the following grounds:

- (a) (i) the contractor/supplier; (ii) a director or management staff of the contractor/supplier; or (iii) any person who has power of representation, decision or control in the contractor/supplier, has been convicted of one or more serious offences, including offences involving bribery, false accounting, corruption, conspiracy, criminal organisations, fraud, dishonesty, money laundering or terrorist financing, terrorist activities, proceeds of crime, child labour and other forms of human trafficking at any time during a period of five years preceding the submission of a tender (“**Tender Submission Date**”) and thereafter up to the time of Contract award;
- (b) it has failed to pay taxes and social insurance in accordance with the applicable laws and regulations during a period of five years preceding the Tender Submission Date and up to the time of Contract award;
- (c) it is in violation of any health and safety, environmental or employment law obligations;
- (d) a petition is presented or a proceeding is commenced which has not been withdrawn or an order is made or a resolution is passed for the winding up or bankruptcy of the contractor/supplier, or the contractor/supplier is in an analogous situation arising from a similar procedure under the laws and regulations of a foreign country;
- (e) it is guilty of grave professional misconduct, including any breach of good industry practice, committed during a period of five years preceding the Tender Submission Date and up to the time of Contract award, that impacts on its commercial integrity;
- (f) it controls or has entered into agreements with other contractors/suppliers aimed at distorting competition in relation to the same tender;
- (g) there is a conflict of interest that cannot be effectively remedied by other, less intrusive, measures;
- (h) it was involved in the preparation of the procurement procedure in respect of which it has submitted a tender;
- (i) it has shown significant or persistent default(s) or deficiency(ies) in the performance of any requirement or obligation under a public contract or any other contract awarded by ITA-HK, which led to early termination of that prior contract, damages or other comparable sanctions;
- (j) it is guilty of misrepresentation in supplying the information required for the verification of the absence of exclusion grounds or the fulfilment of the selection

criteria; or has withheld such information or is unable to provide supporting documents requested by ITA-HK;

- (k) it has made or submitted a false, inaccurate or incomplete statement or representation or a forged document in its tender or in any subsequent submission or communication with ITA-HK since submission of that tender;
- (l) it has undertaken to unduly influence the decision-making process or obtain confidential information that may confer upon it undue advantages in the procurement process, or has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award;
- (m) it has failed to report an incident of bribery or extortion that has come to its attention to the relevant authorities;
- (n) it employs or otherwise engages a person who was an employee of ITA-HK during a period of three years preceding the Tender Submission Date and who had authority to enter into contracts with the contractor/supplier on behalf of ITA-HK; or
- (o) it is otherwise subject to a prohibition on dealing with public entities.