

Guide to Registration of Housing Authority Play/fitness Equipment Agents Reference List



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General Guidelines

(based on the Guide to Registration of Works Contractors and Property Management Services Providers April 2006 (December 2014 Revision), and Guidelines on Management of Contractors without Housing Authority Lists of Contractors relating to Works or Property Services, including Appeal Mechanism, P.I. No. 12 of 2013/14 (Revised on 19.4.2016))

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PART ONE

Listing Requirements

1.0 Introduction

To provide public housing and meet the development needs, the Housing Authority (hereinafter referred to as “**HA**”) is required to procure the expertise and services from agents (hereinafter referred to as “**Agents**”) to supply and install play/fitness equipment. HA has maintained its list of Agents namely “Housing Authority Play/fitness Equipment Agents Reference List” (hereinafter referred to as “**the List**”) in order to ensure that the Agents on the List are qualified to provide the required services to HA.

2.0 How to Register

2.1 Application Submission

2.1.1 Play Equipment Review Board (**PERB**) has established criteria for the selection of suitable Agents (see Item 2.2.1)

2.1.2 Proforma - to obtain information from prospective agents relating to the above criteria, a proforma (DLAP-F069 and Appendix) is prepared for Applicant’s completion and return. This proforma covers equipment installation arrangements and after-sales maintenance. A job reference of installations shall also be provided, which shall include information on location, date(s) of installation, names of clients, and costs of supply and installation.

For play/fitness equipment brand to be considered for inclusion in the List, information on the items with detailed references to list requirement’s compliance shall be provided.

2.1.3 Application for Admission

Applications for admission onto the List shall be submitted to Senior Landscape Architect/1, Landscape Group, 8/F., Block 1, Hong Kong Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon.

2.2 List Admission Criteria

Applicants shall provide information as required in the following paragraphs for admission. After admission onto the List, the Agents shall have the obligation to ensure the continuous compliance of all criteria stipulated and to notify HA immediately if there is any change to the submitted information. Failure in meeting the requirements and/or notifying HA on any updated information may lead to the taking of regulatory actions as in **Part Two - Rules for Removal and Suspension in respect of the Listing of Agents for Housing Authority Play/fitness Equipment Agents Reference List.**

2.2.1 Listing Requirements for Applicants

Applicants applying for admission onto the List shall meet following criteria:

- A. shall have been well established in Hong Kong for at least 5 years in the business;

- B. shall have proven satisfactory experience for supply and installation of play/fitness equipment in Hong Kong; have completed relevant projects (similar to the scale and nature of HA's projects) in the past years with two of those completed projects with satisfactory performance;
- C. shall be agent of their brand of play/fitness equipment in Hong Kong;
- D. shall provide to HA a confirmation in writing that it is the agent of the brand of play/fitness equipment on an annual basis. The confirmation shall be supported and appended with a copy of the Agency Agreement between the Agent and the Manufacturer of the brand of play/fitness equipment;
- E. in the event of new applications, the confirmation referred to in (D) above shall be supported and appended with a certified true copy of the Agency Agreement between the Agent and the Manufacturer of a brand of play/fitness equipment. The certification of the true copy of the Agency Agreement shall be carried out by a solicitor or qualified accountant practicing in Hong Kong;
- F. shall engage an Approved Playground Safety Inspector with recognized qualification who shall certify the new installation and maintenance services; and
- G. shall have no related company which has been admitted onto the List. (Failure to comply with requirement is classified as a serious misconduct for the purposes of the Listing Requirements and Rules.)

2.2.2 PERB Established Set of Selection Requirements for Play/fitness Equipment –

A. Warranties and Guarantees

The minimum requirements as set down below shall be met for all play and fitness equipment:

- three-year warranty to replace any defective timber parts;
- five-year warranty to replace any defective polyethylene components; and
- ten-year warranty against structural failure of play/fitness equipment.

Note: the Agent shall provide HA with a deed of warranty (executed by the Agent) after the completion of the installation.

B. Availability of Spare Parts

- for frequently used spare parts, keeping of stock is required, and completion date for repair works orders no more than 28 days (including material delivery and site works),
- for other spare parts, completion date for repair works order should not be more than 90 days (including material delivery and site works).

C. Proven Third Party Safety Certificate

Play/ fitness equipment items, not individual components, with a proven third party's safety certificates to international standards (e.g. ASTM, BSEN or EN) shall be selected and proposed by the Agent.

2.2.3 Ethical Integrity

The Agent shall have a company Code of Ethics and Code of Conduct. In preparing a suitable Code of Ethics and/or Code of Conduct, advice is available from the Advisory Services Group (Hotline: 2526 6363) of the Corruption Prevention Department, the Independent Commission Against Corruption (website: <http://www.icac.org.hk>).

2.2.4 Registered Office and Work Experience

The Agent shall have a valid business registration and a registered office in Hong Kong. An applicant applying for admission onto the List shall have an appropriate proven work record. The suitability of the applicant for admission onto the List is assessed on the basis of its business activity in Hong Kong. An organization chart of the company shall be submitted.

2.2.5 The Agent shall provide after sale maintenance service including a suitable supply of spare parts; and enter into a maintenance contract with Housing Department.

2.2.6 Agents shall inform HA within 10 days from the date of change in the details of their company, such as business address and telephone number etc.

2.3 Processing of Applications

The following pledge applies to application for admission and confirmation.

2.3.1 Normal Processing Time

Upon receipt of an application, HA will assess whether the applicant meets the criteria for the type of application. If the assessment cannot be proceeded within three months from the date of receipt of the application due to incomplete or inadequate information, the applicant will be requested to provide the outstanding information or clarification of information within one month from the date of HA's notification. After receipt of complete information for assessment, the applicant will normally be informed of the result within three months from the date of receipt of the information.

2.3.2 Incomplete or Inadequate Information

If an applicant fails to provide the outstanding information or clarification as requested by HA within one month as mentioned in paragraph 2.3.1, the application will be rejected. A re-submission will be considered as a fresh application.

2.3.3 Acceptance and Rejection of an Application for Admission onto a List - HA has the absolute discretion to accept or reject an application for admission onto a List. If the application for admission is rejected, a reason will normally be given to the applicant.

2.4 Change of Company Name

When an Agent on the List applies for a change of the company name, the Agent shall submit its application.

(Note: An Agent may change from a partnership or sole proprietorship to a limited company or may wish to transfer its status to its holding or subsidiary company. All these cases may result in applications for substitution, i.e. replacement by another company on the List.)

3.0 OBLIGATIONS

3.1 Acceptance of Obligations

An applicant submitting an application for being an Agent on the List shall be deemed to have unconditionally accepted the obligations laid down in the Guide and any future amendments and/or additions thereto. Any attempt to qualify such obligations may lead to rejection of the application or removal from the List as appropriate.

3.2 Compliance with List Requirements

An Agent on the List needs to continuously satisfy the prevailing List requirements for retention on such List.

3.3 Ethical Integrity

Collusion among Agents on any tendering exercise or any business transaction on any HA projects is strictly prohibited. Specifically, Agents shall not engage in any act which may yield a predetermined outcome of any award of works or any act in any way which may or will result in secret commissions being made to Agents. An Agent found involved in such malpractice shall be subject to regulatory actions as described hereinafter.

The Agent shall advise its employees that they are not allowed to offer or give any advantage or excessive entertainment to any of HA/HD employees or members of their family, or to solicit or accept any advantage or excessive entertainment from Agents in relation to the services under any HA contract. The Agent may be subject to regulatory actions for any of its employees having committed any offence under the Prevention of Bribery Ordinance in relation to any HA contract. In addition, the Agent may be subject to regulatory actions for its poor integrity such as negligence, misconduct and impropriety, or that of its employees unless the misconduct is not within the control of the Agent, or for bringing disrepute on HA in relation to any HA contracts or otherwise.

3.4 Provision of Updated Company Information

An Agent on the List shall provide HA with updated company information regularly or on request for the purpose of reviewing its status on the List and tendering eligibility. Any Agent failing to comply with HA's requests for such purpose shall be subject to regulatory actions as HA deems appropriate.

3.5 The Agent shall actively participate and provide submission(s), proposal(s), quotation(s) or tender(s) to HA or to HA's contractor(s) or other persons upon request of HA or HA's contractor(s).

3.6 The Agent shall submit submission(s), proposal(s), quotation(s) and/or tender(s) as and when HA requests, either through HA's contractor(s) or directly from HA. For the rules and policies on monitoring of performance, tender irregularities and tender withdrawal of Agents on any quotation(s) and/or tender(s) under Estate Management Division (EMD) administration, the Agents shall refer to the Conditions of Quotation in relevant tender documents.

3.7 Reference to information from other Government Bureaux and Departments

The Agent's conviction records, listing status and performance in other government bureaux and departments, where appropriate, may be taken as a reference when assessing a contractor's eligibility for tender award or its eligibility to be selected to tender for HA's quotations. In addition, relevant information of an Agent on the List pertaining to

its listing status and performance in HA projects may be shared with other government bureaux and departments.

4.0 APPEAL/OBJECTION AGAINST THE TAKING OF REGULATORY ACTIONS

4.1 Notification

Where regulatory action is taken against the Agent, it will be notified in writing of the reason(s).

4.2 Appeal/Objection

Where regulatory action is taken against the Agent, it may, if it so selects, object to the regulatory action imposed by making written submission with supporting reason(s) and/or requests for presentation of its case for a review to Secretary of the PRLMB through SLA/1, Housing Authority Headquarters at No.33 Fat Kwong Street, Ho Man Tin, Kowloon. The written objection must be submitted within 14 days from the date of HA's notification. Should any such submission be received, PERB will preliminarily vet the submission. The Chairperson of PRLMB will review the grounds of appeal/ objection on the advice of the PRLMB, the Chairperson shall make a determination to uphold or vary, with or without conditions, the previous decision made by PERB. The decision and the reasons for that decision will be conveyed to the Agent in writing. The decision shall be final.

PART TWO

Rules for Removal and Suspension in respect of the Listing of Agents for Housing Authority Play/fitness Equipment Agents Reference List

A. Circumstances warranting removal from the List for at least 3 years.

- (1) Serious misconduct or criminal offences.
- (2) Serious incidents of wage in arrears, quality or safety problems which had brought disrepute to the main contractor(s) or HA.
- (3) Agent's inability to complete the contract(s) or sub-contract(s) which had brought financial losses to the HA.
- (4) Other serious incident that has aroused grave concern of the Government, HA or members of the public.

B. Circumstances warranting removal from the List for at least 1 year.

- (1) Mis-conduct, or serious, deliberate or fraudulent non-compliance with the requirements of a contract/sub-contract.
- (2) Involvement in the misconduct of an employee, agent or sub-contractor of the Agent.
- (3) Signs of Agent's bankruptcy or winding up of business that may affect or has affected its capability to undertake any contract/sub-contract in respect of any HA or Government projects or works.
- (4) Having one or more court conviction(s) on serious issues under relevant ordinance(s).
- (5) Continual poor performance in or under an HA contract or a sub-contract to an HA Contract.
- (6) Poor performance in or under many HA contracts or sub-contracts to HA Contracts.
- (7) Poor performance or other serious causes which is/are considered by HA as serious in or under any other public or private sector contracts.
- (8) Submission of inaccurate or incompetent tenders/quotations on two or more occasions within a rolling period of three years, provided that such practice gives rise to reasonable suspicions as to the capability or integrity of the Agent.
- (9) Persistently having poor site safety records.
- (10) Failure to effect payment to workers (of the Agent's employees or sub-contractors) as ordered by the Labour Tribunal or any other appropriate authority which demonstrates serious negligence or incompetence of the defaulting Agent.
- (11) One or more incidents of wage arrears which may arouse or has aroused the concern of the public or media.

- (12) Withdrawal of tender(s)/quotation(s) within the tender/quotation validity period on more than two occasions within a 12-month rolling period without justifiable reason(s) considered acceptable by HA.

C. Circumstances warranting a suspension from the List for at least 3 months.

- (1) Suspected misconduct (until such time as the Agent is cleared of such suspicion, or misconduct is confirmed in which case consideration will be given to extending the period of suspension).
- (2) Signs of cash flow problems.
- (3) Poor performance, including but not limited to consecutive adverse reports from respective Contract Managers of Building Contracts, or consecutive adverse reports for the same contract(s) rated by the CRC(BM), where it is desirable to ensure that the Agent completes its current commitments before undertaking further contracts or sub-contracts.
- (4) Suspected serious poor performance or other serious causes in any public or private sector contracts.
- (5) Having poor environmental protection records.
- (6) Having poor site safety records. For example, consecutive failures in site safety audits; Labour Department's Suspension Notice(s) in HA contracts.
- (7) A decision of the Panels of Enquiry on Accidents for HA contracts on the suspension of the Agent for at least 3 months.
- (8) Having a poor wage payment system (for the Agent's employees or sub-contractors). For example, failures in complying with the contractual obligations.
- (9) Having poor wage payment records (of the Agent's employee or sub-contractors).
- (10) Poor management of the Agent's sub-contractors in paying their workers. For example, failure to demonstrate to HA an effective system in regulating its sub-contractors or failure to prove its determination to replace its sub-contractors even with knowledge of their mal-practices in non-payment or exploitation of their workers.
- (11) Withdrawal of tender(s)/quotation(s) within the tender/quotation validity period on two occasions within a 12-month rolling period without justifiable reason(s) considered acceptable by HA.

D. Effects of immediate removal or suspension from the List in circumstances where the Agent is a sub-contractor or supplier in respect of HA contracts

- (1) Upon removal or suspension from the List under any of the circumstances of (A) to (C) above, the Agent shall not be entitled to submit any quotation(s), tender(s) or proposal(s) to main contractors in respect of any HA contract(s).

- (2) Upon removal or suspension from the List under any of the circumstances of (A) to (C) above, any quotation(s) or tender(s) or proposal(s) already submitted by the Agent to any main contractor(s) in respect of any HA contract(s) shall not be considered by the main contractor(s) of the relevant HA contract(s) and HA shall have the right to instruct or order the main contractor(s) not to consider or to reject any quotation(s) or tender(s) or proposal(s) submitted by the Agent, and the Agent shall have no right to seek any compensation or damages from HA or such main contractor(s).
- (3) Upon removal or suspension from the List under any of the circumstances of (A) to (C) above and in the event that any quotation(s) or tender(s) or proposal(s) submitted by the Agent to any main contractor(s) in respect of any HA contract(s) may be accepted by the main contractor(s) of the relevant HA contract(s), HA shall have the right to instruct or order the main contractor(s) not to accept any such quotation(s) or tender(s) or proposal(s) submitted by the Agent and not to award any contract or sub-contract in respect thereto, and the Agent shall have no right to seek any compensation or damages from HA or such main contractor(s).