

**MEMO**

*From* Secretary for Development  
*Ref.* in DEVB(PS)106/11/7  
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*Date* 31 May 2013

*To* Distribution  
*(Attn. : \_\_\_\_\_)*  
*Your Ref.* in \_\_\_\_\_  
*Dated* \_\_\_\_\_ *Fax No.* \_\_\_\_\_  
*Total Pages* 1+2

**DEVB Technical Circular (Works) No. 3/2013 –  
Procedures in the Selection of Consultants for Small Consultancy Assignments**

Paragraph 2(a) in Appendix A to the captioned circular provides that, if the number of longlisted consultants is less than 15, additional small consultants meeting some longlisting criteria and/or with the potential to form joint venture (JV) to meet the longlisting criteria should be included into the distribution list of the invitation letter so that they are made aware of the potential JV participants/shareholders whom they can contact.

2. A sample notification letter to potential consultants is attached at **Annex 1** for reference.
3. Appendix 3.3 of EACSB Handbook is also amended for the promulgation of DEVB TC(W) No. 3/2013 and attached at **Annex 2**.

(Victor Tai)  
for Secretary for Development

Distribution:

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Secretary, EACSB	

**Development Bureau Technical Circular (Works) No. 3/2013**  
**Procedures in the Selection of Consultants for Small Consultancy Assignments**

**Notification Letter to Consultants with**  
**potential to participate in a small consultancy as a joint venture partner**

If the number of longlisted consultants is less than 15, a separate letter should be distributed to the potential consultants meeting some longlisting requirements and/or with the potential to form joint venture to meet the longlisting requirements as identified by the Assessment Panel. A sample letter is shown below. The distribution list of the potential consultants should be attached as an Appendix to the letter.

**Dear Sirs,**

**I write to bring to your attention the attached notice to invite expression of interest in undertaking the above small consultancy assignment.**

**A list of small consultants meeting some, but not all, longlisting requirements is given in the Appendix. If you are interested in this assignment, you may submit expression of interest by forming joint venture (JV) with these and/or other small consultant(s) to satisfy all the longlisting requirements as well as other requirements stipulated in the notice. Please take note of the requirements and limits on the number of professional staff and ensure compliance when considering the formation of a JV for the captioned consultant agreement.**

**I should be pleased if you would acknowledge receipt of this letter.**

**Yours faithfully,**

(            )

**c.c. Secretary, EACSB – w/o encl.**

**APPENDIX 3.3      SAMPLE NOTICE OF INVITING EXPRESSION OF INTEREST THROUGH INTERNET**

**[Statements to replace the first two paragraphs of the invitation letter for Expression of Interest through normal longlisting]**

Interested consultants are invited to express interest in undertaking the above consultancy.

Consultants should fulfil and declare that they have met the following longlisting criteria for their submissions to be considered further:

*[longlisting criteria to be inserted]*

# [This consultancy is invited as a small consultancy assignment as defined in Development Bureau Technical Circular No. 3/2013 *[to be hyperlinked]*. Consultants should include in their submission a written statement confirming that they meet the requirements as stipulated in Part 1 of Annex \_\_ to the Invitation Letter (*Part 1 of Appendix B to that Technical Circular*), together with a list of current assignments being handled by their small consultancy firms.]

The scope of this consultancy, which is currently expected to commence on \_\_\_\_\_, is indicated in the draft Brief. *[to be hyperlinked]* *[This can be modified to indicate alternative means for the interested consultants to obtain the electronic invitation package if the size of the package is too large to be posted on the website.]*

*# This paragraph should be deleted as appropriate.*

Note. This sample Notice may be modified where necessary to suit the circumstances.

香港特別行政區政府

The Government of the Hong Kong Special Administrative Region

政府總部  
發展局  
工務科  
香港添馬添美道2號  
政府總部西翼



Works Branch  
Development Bureau  
Government Secretariat  
West Wing, Central Government Offices,  
2 Tim Mei Avenue, Tamar,  
Hong Kong

Ref : DEVB(PS)106/11/7  
Group : 6

26 April 2013

**Development Bureau**  
**Technical Circular (Works) No. 3/2013**

**Procedures in the Selection of Consultants for Small Consultancy Assignments**

**Scope**

This Circular promulgates the revised procedures for the selection of consultants for small consultancy assignments under the jurisdiction of the Engineering and Associated Consultants Selection Board (EACSB). This Circular also provides guidelines for procuring consultancy agreements of similar engineering nature but not exceeding the financial limit as set out in Section 221 of Stores and Procurement Regulations (currently, at \$1.43M).

**Effective Date**

2. The Circular takes effect on EACSB consultancy assignments for which Expressions of Interest are invited on or after **1 June 2013**.

**Effect on Existing Circulars and Handbook**

3. This Circular replaces WBTC No. 45/2002, which is hereby cancelled. This Circular should be read in conjunction with the EACSB Handbook. In case of discrepancies, the provisions of this Circular shall prevail.

## **Background**

4. A considerable number of small consulting firms in Hong Kong are capable of providing consultancy services for small consultancy assignments comparable to that provided by large consulting firms. It is in the interest of the Government to see these small consulting firms thrive, and that they should be encouraged to participate in public works projects.

5. We promulgated the small consultancy procurement procedures (the procedures) in 2002, requiring that for consultancy assignment of estimated fee not exceeding \$4 million, the longlisting should be confined to small consulting firms unless the assignment is not straightforward.

6. However, as most of the small consultancy assignments get more and more multi-disciplinary or specialized to meet the increasingly complicated requirements of projects over time, they have been exempted from the procedures according to the provisions therein. This situation has called for a revamp of the procedures to facilitate the small consulting firms with more opportunities of forming joint ventures (JV) and getting support from specialist sub-consultants so that the capable ones can be given a chance to undertake the small consultancies.

## **Policy**

7. A consultancy assignment shall be subject to the small consultancy procurement procedures if the estimated consultancy fee (the estimated fixed lump sum fee, or adjustments to scale of percentage fees, or time-charge rates, where applicable) of the assignment does not exceed \$5 million. The procedures described in Appendix A shall apply unless:

- (a) the Assessment Panel considers that the consultancy assignment is not suitable for small consultants as one or more of the conditions stated in paragraph 9 are present,
- (b) the Head of the Department is personally satisfied that the consultancy assignment is not suitable for small consultants and approves the recommendation of the Assessment Panel that the procedures shall not apply; and
- (c) the procuring department also seeks policy support from DEVB for exemption of the procedures with justifications. The procuring department should normally allow 2 weeks for this.

8. If exemption of the procedures is granted, the usual procedures for the selection and engagement of consultants described in the EACSB Handbook will apply. A copy of the standard form "Granting of exemption of small consultancy procurement

procedures”, as shown at Appendix C, shall be included in the Stage 1 submission (i.e. recommendation of a shortlist of suitable consultants) to the EACSB.

9. To better ensure consultancy assignments to be undertaken by consultants meeting the qualification requirements in a cost-effective manner and reasonable responses to the invitation for Expression of Interests (EOIs), a consultancy assignment may be considered not suitable for small consultants if any one or more of the following conditions are present:

- (a) The assignment is for a pilot project, with no or rarely any similar reference in Hong Kong.
- (b) The specialized or other particular nature of the assignment requires a consulting firm with a sufficiently long history of proven experience or expertise knowledge which is not generally available in small consulting firms.
- (c) Less than six potential bidders (including individual small consulting firms and their JVs) or amongst the six or more potential bidders, less than four individual small consulting firms could meet the multi-disciplinary and other longlisting requirements, even with an expanded list of small consulting firms.

10. To determine the requirements on the number of professionals of small consulting firms and their JVs and to consider whether the condition in 9(c) above is met, the procedures in paragraphs 11 to 13 below shall be followed.

11. The assessment panel shall derive appropriate longlisting criteria based on the nature, scale and other particular situations of the consultancy assignment, but which should not be over-stringent to limit the level of competition unduly. Normally, the scale of small consultancies should not call for more than 2 numbers of professional staff in a service category when there are requirements for professional in more than one service category. The assessment panel should also take into account the possibility of bringing-in specialist sub-consultants for minor input, e.g. a planning or an environmental sub-consultant’s input for an engineering project. In this regard, services under a single discipline up to maximum 10% of the estimated fees could normally be considered as minor input through a sub-consultant. With the required services of the specialist sub-consultants clearly specified in the consultancy documents and provided by appropriate professional staff of a specialist sub-consultant, professional staff in such specialist services should not be specified again as one of the longlisting criteria.

12. If multi-discipline is one of the longlisting criteria, requiring professionals in more than one service category, the limit on the total number of works-related professional staff in a JV will be raised from 10 to 20, allowing the small consulting firms with more opportunities to form JV to satisfy the longlisting requirements. For the purpose of assessing the number of JVs in paragraph 9(c) when only four or five small consulting firms can be longlisted, a JV of reasonable formation for organisational

efficiency can normally be assumed to have no more than three JV participants/shareholders and the guidelines for determining the number of potential longlisted JVs (at Appendix D) may be followed.

13. For small consultancies where any required minimum number stipulated in condition 9(c) above cannot be met, even with the limit raised as mentioned in paragraph 12 above, the maximum number of works-related professional staff in a small consulting firm or individual JV participants/shareholders can be raised from 10 to 15 subject to approval from an officer of D3 level or above. The condition 9(c) should then be re-assessed in determining whether the small consultancy should be exempted.

14. A flow chart showing the steps to determine if the small consultancy procurement procedures should apply is at Appendix E.

15. Appendix A shows the small consultancy procurement procedures, which shall then be followed to establish a longlist and to invite expression of interest. Other relevant provisions, for example, establishing the shortlist, combined technical and fee assessment etc., of the EACSB Handbook shall apply.

16. For consultancies of similar engineering nature but not exceeding the financial limit as set out in Section 221 of Stores and Procurement Regulations (currently, at \$1.43M), departments should in general follow, in addition to the relevant provision in the same chapter of SPR, the same procedures for small consultancy procurement, except with the differences in procedures as stated at Appendix F.

**(C. S. Wai)**  
**Permanent Secretary for the Development (Works)**

**Procedures on Invitation for  
Expression of Interest for Small Consultancy Assignment**

1. Step I

Assessment Panel Establishing a Longlist of Small Consultants

- (a) For a small consultancy assignment, longlisting shall be confined to small consulting firms, as defined in sub-paragraphs 1(b) and 1(c). A reasonable number (but normally not less than 6) of "small consulting firms" shall be longlisted.
- (b) A consulting firm will be considered for the assignment if the total number of its works-related professional staff, for example, engineers, architects, surveyors, planners and landscape architects, does not exceed 10 [or 15 as determined according to paragraph 13 of DEVB TCW No. 3/2013]. At least half of the professional staff must be Hong Kong-registered professionals or corporate members of Hong Kong professional institutions in the appropriate disciplines. For a joint venture, it will be considered for the assignment if the total number of works-related professional staff in the joint venture does not exceed 10 [ 15 or 20, as determined according to paragraphs 11 to 13 of DEVB TCW No. 3/2013] and the number of works-related professional staff in each of the individual participant/shareholder does not exceed 10 [or 15 as determined according to paragraph 13 of DEVB TCW No. 3/2013].
- (c) Additionally, the consulting firm shall be registered and maintain an active office in Hong Kong.
- (d) Information on the consultants' staffing levels shall be obtained from available sources, for example, managing department's own sources, the EACSB Consultants' Services Directory, etc.

2. Step II

Inviting Expression of Interest

- (a) The procuring department shall send an invitation letter to the consultants on the longlist requesting expression of interest. If the number of longlisted consultants is less than 15, additional small consultants meeting some longlisting criteria and/or with the potential to form JVs to meet the longlisting criteria should be included into the distribution list of the invitation letter so that they are made aware of the potential JV participants/shareholders whom they can contact. The list of additional small consultants to be included shall be determined by the Assessment Panel. A Notice of Inviting Expression of Interest through Internet shall also be posted on the website of the department in accordance with Section 3.5.4 of EACSB Handbook.



- (b) Consultants shall be required to confirm in writing whether they satisfy the requirements as stipulated in the longlisting criteria, and declare the amount of outstanding work in hand to enable the Assessment Panel to assess whether the consulting firm will have the capacity to undertake the consultancy assignment. The following statements shall be included in the invitation letter:

"This assignment falls within the criteria for inviting Expression of Interest as a small consultancy assignment as laid down in DEVB TCW No. 3/2013. Accordingly, longlisting will be confined to consulting firms or joint ventures (JV) meeting the requirements as stipulated in Part 1 of Annex \_\_\_\_ to this letter (*Appendix B of this Circular*). As a prerequisite for your submission to be considered, you (hereunder including all the consultant firms in your JV) must satisfy the same requirements. Also you are required to declare the amount of outstanding works in hand by providing a list of all current assignments with the Government and other clients. For each assignment, please provide details on the scope of assignment, name of client, consultancy fees, and percentage of work outstanding. Please complete Part 2 of Annex \_\_\_\_ and returning it to me together with your submission. Failure to do so will result in your submission not being considered."

- (c) Normally, about 10-15 working days should be allowed for consultants to submit the expression of interest document.

**Annex \_\_\_\_ to Invitation Letter**

**Agreement No. CE \_\_\_\_\_**

**Requirements of "Small Consulting Firm"**

Part 1. Requirements

- (a) A consulting firm will be considered for appointment of this agreement if the total number of its works-related professional staff, for example, engineers, architects, surveyors, planners and landscape architects, does not exceed 10 [or 15 as determined according to paragraph 13 of DEVB TCW No. 3/2013]. At least half of the professional staff must be Hong Kong-registered professionals or corporate members of Hong Kong professional institutions in the appropriate disciplines. For a joint venture, it will be considered for appointment of this agreement if the total number of works-related professional staff in the joint venture does not exceed 10 [15 or 20, as determined according to paragraph 11-13 of DEVB TCW No. 3/2013] and the number of works-related professional staff in each of its individual participants/shareholders does not exceed 10 [or 15 as determined according to paragraph 13 of DEVB TCW No. 3/2013].
- (b) The consulting firm shall be registered and maintain an active office in Hong Kong.

Part 2. Confirmation by Consultant (to be completed and returned to the managing department together with the Expression of Interest submission)

I hereby declare that my/our firms satisfy all the requirements stipulated in Part 1 above.

A list of all current assignments handled by my/our firms is attached.

Name of Consultant(s) : \_\_\_\_\_

Signed : \_\_\_\_\_  
( )

Date : \_\_\_\_\_

**Part 1**

To: (Head of Department)  
via

(Title of Consultancy and Assignment No.)  
Granting of exemption of small consultancy procurement procedures

The estimated consultancy fee of the captioned assignment is less than \$5 million. The Assessment Panel, at its meeting held on \_\_\_\_\_, considered that this assignment is not suitable for small consultants for the reasons given below, and recommended that the procedures described in Appendix A of DEVB TCW No. 3/2013 in respect of the selection of consultants for small consultancy assignments should not apply.

Reasons:

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Signature:

Name:

Post: (Chairman, Assessment Panel)

Date:

**Part 2**

To: (Chairman, Assessment Panel)

\* I am satisfied that the above assignment is not suitable for small consultants and approve your recommendation that the procedures described in Appendix A of DEVB TCW No. 3/2013 in respect of the selection of consultants for small consultancy assignments shall not apply.

\* Your recommendation made in Part 1 is not approved because \_\_\_\_\_

Signature:

Name:

Post: (Head of Department)

Date:

\* Delete as appropriate

Part 3

To: (Chairman, Assessment Panel)

\* Based on the circumstances you stated in Part 1, I give my policy support that the procedures described in Appendix A of DEVB TCW No. 3/2013 in respect of the selection of consultants for small consultancy assignments shall not apply.

\* Your recommendation made in Part 1 is not approved because \_\_\_\_\_

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Signature:

Name:

Post: , DEVB

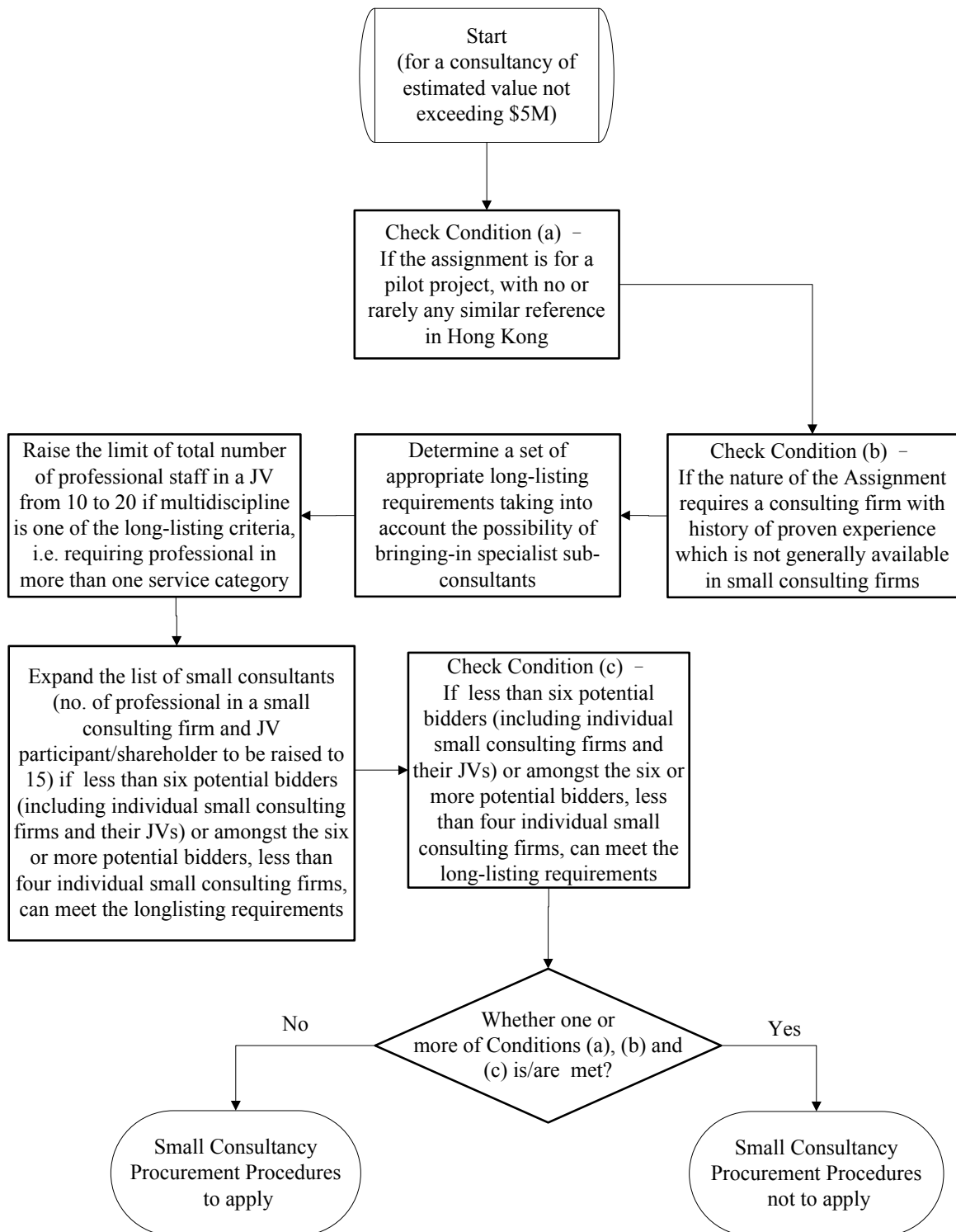
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\* Delete as appropriate

**Guidelines for determining the number of potential JVs**

1. There is a need to ensure that sufficient number (at least six) of potential bidders (including individual small consulting firms and their JVs) can reasonably meet the longlisting criteria so that reasonable competition can still be maintained to procure services from qualified consultants cost-effectively. In addition, to better ensure there will be reasonable responses of EOIs, the number of individual small consulting firms which satisfy all the longlisting requirements should be at least four.
2. Therefore, these guidelines are applicable when only four or five small consulting firms can be longlisted.
3. Formation of JV is a commercial decision, which has to be reached by all the JV participants/shareholders. Therefore, its likelihood and the total number of potential longlisted JVs should be assessed with caution.
4. In assessing the number of potential longlisted JVs which may be formed by those consultants each not meeting all the longlisting requirements, it may be taken as the minimum amongst the number of individual consultants satisfying each combination of individual longlisting requirements. The combinations of longlisting requirements should be determined by the number of JV participants/shareholders in a JV which the procuring department considers is reasonable for organisational efficiency commensurate with the nature, programme, interfacing and other particular requirements of the consultancy services as mentioned in paragraph 12 of this circular. In other words, when there are N longlisting requirements (other than those which every JV participant/shareholder has to comply with) and the reasonable number of JV participants/shareholders in a JV is expected to be n, then the number of JVs may be taken as the minimum amongst the number of consultants satisfying any combination of N+1-n of the N longlisting requirements as further illustrated in the worked examples below:
  - a) Four longlisting requirements: A, B, C and D
  - b) Two JV participants/shareholders are considered reasonable.
  - c) Each combination of the longlisting requirements contains 4+1-2, i.e. 3 longlisting requirements (e.g. a longlisting requirement can be the minimum number of professionals in each discipline).
  - d) Number of individual consultants satisfying A, B and C is W  
Number of individual consultants satisfying A, B and D is X  
Number of individual consultants satisfying A, C and D is Y  
Number of individual consultants satisfying B, C and D is Z
  - e) The number of potential longlisted JVs may be taken as the minimum amongst W, X, Y and Z.
5. For the avoidance of doubt, the above procedures are solely for the purpose of assessing whether the exemption criterion related to the number of potential longlisted consultants and/or their JVs is met. They do not set any restriction on the formation of JVs including the actual number of JV participants/shareholders, which is up to the consultants themselves to propose having regard to the service requirements.

**Flow Chart : Steps to Determine if Small Consultancy Procurement Procedures shall apply for consultancies of value not exceeding \$5M**



**Differences in procedures for engineering consultancies of estimated values not exceeding the financial limit as set out in SPR Section 221 (currently, at \$1.43M)**

- (1) Pursuant to the provision of SPR, expression of interests is not necessarily required for consultancies of values not exceeding the financial limit. Invitation of quotations (which may be in a form of Technical and Fee proposals) for these consultancies should follow the prevailing SPR requirements. When necessary, the minimum number of consulting firms to be invited to submit Technical and Fee proposal may be reduced to five or even less subject to approval to be sought according to the SPR requirements. This adopted minimum number of consulting firms (5 or below) should replace the minimum requirements (6 number) of small consulting firms/and their JVs in paragraph 9(c) and 13 of the Circular for consultancies of estimated value not exceeding the financial limit as set out in SPR Section 221.
- (2) If sufficient capable small consulting firms and/or their JV of reasonable formation cannot be identified to meet the minimum number even with an expanded list of small consulting firms due to the multi-disciplinary, specialized or other particular nature/requirements of a consultancy according to paragraph 9 of the circular, a D3 (or above) rank officer's approval is required for exemption of the small consultancy procurement procedures, instead of those stated in paragraph 7 of the circular. Departments will be required to provide regular returns on the exemption records and adoption of small consultancy procedures for DEVB's monitoring purpose.
- (3) The normal limit on the number of professional staff in a service category when there are requirements for professional in more than one service category should be 1 (instead of 2 as stipulated in paragraph 11 of the circular.).