

Q1: I notice that a max. 15 score is allocated to Tenderer’s Experience in operating MSBs for modern industries in non-premium submission assessments. We would like to seek clarification on how the Experience/Scores will be counted in the case of Joint Venture and only one/some of the JV partners has the relevant experience. What is the case if the experienced JV partner does not hold a controlling stake in the subsidiary company? May I know if it is not required under the Tender Documents to disclose the company structure (e.g. providing Organization Chart)/ shareholding by each JV Partners in the Subsidiary Company during tender submission stage?

A1: To ensure that the tendering result of the site for the development of Multi-storey Buildings for modern industries (“MSB”) serves the dual policy objectives of promoting the development of industries, as well as consolidating brownfield operations displaced by government projects in a land efficient manner, a two-envelope approach has been adopted where a marking scheme has been put in place to reward scores under various criteria for tenderers and their submissions that can effectively contribute to achieving the abovementioned policy objectives. One of such criteria is the experience of the tenderer in developing and/or operating of MSBs.

In assessing the criteria of “[e]xperience in developing and/or operating MSBs”, the Government adopts a weighted approach in awarding mark(s) to the tenderer. In the case of a Joint Venture, since each partner holds different portion of shares, the mark(s) to be assigned would be based on the aggregate number of year(s) of relevant experience of each partner in the Joint Venture, in relation to the proportion of shares that particular partner with such experience holds within the joint venture.

For instance, if the Joint Venture consists of partner A, partner B and partner C where each of them holds 20%, 30% and 50% of the shares of the joint venture respectively, and only partner A has an aggregate number of 10 years’ experience in developing and/or operating MSB, the tender of the Joint Venture will thus receive the following score –

10 years of experience = 15 marks

Given partner A has 20% shareholding in the Joint Venture

The weighted score to be awarded would be 15 marks x 20% = 3 marks

In accordance with Annex II to the Tender Notice, tenderers are required to provide documentary proof to support the tenderers’ claim of experience, this should include

documents to demonstrate the shareholding of each partner of the Joint Venture.

For the avoidance of doubt, the experience of any associated company of the tenderer is **not** regarded as tenderer having experience in developing and/or operating MSBs. In the case of a joint venture, the experience of any associated company of any participant or shareholder in the joint venture is not regarded as shareholders in the joint venture as having experience in developing and/or operating MSBs. The term "associated company", in relation to the tenderer, means: (a) a subsidiary of the tenderer; (b) a holding company of the tenderer; or (c) a subsidiary of such holding company. The existence of a holding-subsidiary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622).