| Clause | Remarks/Guidelines |
| --- | --- |
| **GCT 29 One tender only for holding companies, subsidiaries or related parties** |
| (1) | Unless otherwise provided in the Special Conditions of Tender, no tenderer is permitted to submit more than one tender for each contract. |  |
| (2) | 1. A holding company and all of its subsidiaries shall be allowed to submit only one tender from any one of the companies in the group.
2. The existence of a holding-subsidiary relationship shall be determined as at the date set for the close of tender, or if this has been extended, the extended date, and in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622).
 | DEVB memo ref. DEVB(W) 510/10/01 dated 16.12.2014. |
| (2A) | 1. For related parties, only one of them is permitted to submit a tender for the contract.
2. For the purpose of this sub-clause (2A), an entity (including but not limited to sole proprietorship, partnership and limited company) and the tenderer are related parties if any of the following conditions applies as at the date set for the close of tender, or if this has been extended, the extended date:
3. A person has control or joint control of the entity; and that person or his relatives:
4. has control or joint control of the tenderer;
5. has significant influence over the tenderer; or
6. is a member of the key management of the tenderer or of a parent of the tenderer.
7. A person has control or joint control of the tenderer; and that person or his relatives:
8. has significant influence over the entity; or
9. is a member of the key management of the entity or a parent of the entity.
10. The entity, or any member of a group of which it is a part, provides key management services to the tenderer or to the parent of the tenderer.
11. For the avoidance of doubt, the following definitions should be adopted when interpreting sub-clause (2A) above: -

‘Control’ means the power to govern the financial and operating policies of the tenderer/entity so as to obtain benefits from its activities.‘Joint control’ means the contractually agreed sharing of control over the tenderer/entity, and exists only when the strategic financial and operating decisions relating to the tenderer/entity require the unanimous consent of the parties sharing control.‘Significant influence’ means the power to participate in the financial and operating policy decisions of the tenderer/entity but is not control or joint control over those policies‘Key management’ mean those persons having authority and responsibility for planning, directing and controlling the activities of a business, directly or indirectly, including any director (whether executive or otherwise) of that business.A person’s ‘relatives’ mean any family members of a person who may be expected to influence, or be influenced by, that person in their dealings with the tenderer or the entity. They may include but not limited to:1. the person’s domestic partner and children;
2. children of the person’s domestic partner; and
3. dependants of the person or the person’s domestic partner.
 | DEVB memo ref. DEVB(W) 510/83/05 dated 16.9.2020 |
| (3) | Failure to observe the above conditions shall render all related tenders null and void and any such tenders shall not be considered. |  |
| (4) | The tenderer shall submit with its tender a Digitally Signed and witnessed letter in the form set out in Appendix [*insert reference*] + to the General Conditions of Tender. For the avoidance of doubt, the said letter must be Digitally Signed by both the tenderer and its witness, save that the witness does not have to be a person authorized to sign Government contract. | DEVB memo ref. DEVB(W) 510/83/05 dated 9.11.2020+ It shall NOT be included as an essential submission under GCT 21. |
| **Appendix [ ]**To: The Government of the Hong Kong Special Administrative Region ("**Government**")Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Dear Sir/Madam,Contract No.: [ ]Title: [                                                         ]1. \*[I/We], the tenderer, [(name of the tenderer) of (address of the tenderer)]1, refer to \*[my/our] tender for the above contract.2. \*[I/We] confirm that, before \*[I/we] sign this letter, \*[I/we] have read and fully understand this letter and the requirements set out in General Conditions of Tender Clause GCT 29 on “One tender only for holding companies, subsidiaries or related parties”.3. \*[I/We] represent and warrant that in relation to the restriction that no tenderer is permitted to submit more than one tender for the above contract as set out in GCT 29: 1. This tender is the only tender submitted by \*[me/us];
2. None of our holding company or subsidiary company has submitted a tender for the above contract. The existence of a holding-subsidiary relationship shall be determined as set out in GCT 29(2)(b); [this is only applicable where the tenderer is a company] and
3. None of our related parties, as more particularly defined in GCT 29(2A), has submitted a tender for the above contract.

4. \*[I/We] shall indemnify and keep indemnified the Government against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations and/or warranties above, including but not limited to damages for delay, costs and expenses of re-tendering and other costs incurred.Signed for and on behalf of [name of the tenderer] by [name and position of the signatory]2: Name of Witness:  Signature of Witness:  Occupation:   | \* Delete as appropriate. 1 Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, this part in square brackets should be expanded to include the respective names and addresses of such persons or as the case may be companies.2 Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, all such persons or as the case may be companies must sign. The signatory for each of such persons or companies shall be a person authorized to sign Government contracts on behalf of that person or as the case may be company. |