



**Lands Administration Office
Lands Department**

Practice Note

Issue No. S/2005

Procedure for Land Sale under the Application System

Under the annual Land Sale Programme, the Lands Department publishes a list of sites available for sale upon application ('the Application List'). The Application List contains information on lot number, location, use, site area and the estimated earliest available date for each of the sites.

A review of the Application System was concluded earlier this year and the following measures were introduced from 4 March 2005 to enhance the System:-

- (a) requiring the applicant to send in the application form together with a deposit cheque and the completed Agreement;
- (b) reducing the number of Government Gazette notices from 3 to 2; and
- (c) standardising the amount of deposit at 10% of the 'minimum price' submitted by the applicant, subject to a maximum of \$50 million.

As a result of (a) and (b) above, the whole process has been shortened from around 10 weeks to about 7 weeks and a flowchart illustrating the new procedures is attached at Appendix I.

To further enhance the smooth operation of the System, it has been decided, with immediate effect, that if the minimum price submitted by the applicant is 80% or more of our assessed Open Market Value (OMV) (i.e. within a 20% margin below the OMV), this will be accepted as a trigger to initiate an auction or tender. It must be emphasised that under this new arrangement, there will also be an undisclosed reserve price below which the site will not be sold, i.e. Government will only sell if the bidding meets or exceeds the reserve price.

Parties interested in applying for the sale of the sites must forward to the Lands Department Headquarters the following:-

- (i) an application in the format shown at Appendix II indicating the 'minimum price' they are prepared to bid.

- (ii) an Agreement for Auction or Tender cases ("the Agreement") (the form of which is at Appendix III). The Agreement must be duly signed or sealed (as appropriate) by the applicant; and
- (iii) a cheque or cashier order in an amount equivalent to 10% of the minimum price, subject to a maximum of HK\$50 Million, made payable to the Government of the Hong Kong Special Administrative Region and drawn on a bank licensed under Section 16 of the Banking Ordinance as a deposit ("the deposit"). If a cheque is submitted, it must be certified good for payment by the bank on which it is drawn for 3 months from the date of the application.

The application should not be submitted more than two months before the 'estimated earliest available date' specified in the Application List.

Upon receipt of the application, the Lands Department will, usually within two weeks, inform the applicant, in writing, whether the minimum price is acceptable. If the minimum price is acceptable, the Lands Department will sign and date the Agreement. It will then write to the applicant, enclosing a copy of the executed Agreement and inform the applicant of the intended method of sale, i.e. auction or tender, and the intended auction or tender closing date as appropriate. In general, the date will be around five weeks from the date of signing the Agreement. The Lands Department will also advertise in the media and the Government Gazette and distribute the Conditions of Sale (also available at the Lands Department web site <http://www.info.gov.hk/landsd/>). Normally, there will be two notices in the Government Gazette before the auction date or the tender closing date.

If the minimum price is not acceptable, the cheque or cashier order will be returned without interest to the applicant and no further action will be taken on the application.

Depending on the method of disposal, the following arrangements will be applicable: -

(i) Auction

If the applicant is successful in purchasing the site, the deposit will be applied as part of the premium. If, however, the site is sold and the applicant is not the purchaser, then his cashier order or deposit cheque will be returned to him without interest, on the next working day immediately following the auction. *(Note: Subject to a request made in writing prior to the date of auction, arrangements can be made for returning the cashier order or deposit cheque at the auction venue immediately after the completion of the auction proceedings.)*

In the event that an initial bid in an amount equivalent to or in excess of the minimum price is not received, the deposit will be forfeited.

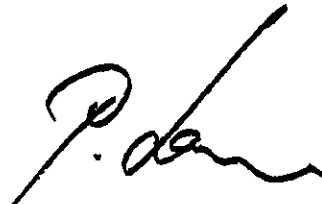
(ii) Tender

If a tender is submitted in the name of the applicant, the deposit submitted will be treated as the deposit required to be submitted with the Form of Tender and the applicant will not be required to submit a separate cheque or cashier order with his tender on the basis that the said deposit remains subject to all the terms and conditions of the Agreement.

If the applicant is successful in purchasing the site, the deposit will be applied as part of the premium. If, however, the applicant is unsuccessful in obtaining the site, but has honoured his undertaking under the Agreement, then his cashier order or deposit cheque will be returned to him without interest within one week after the tender award.

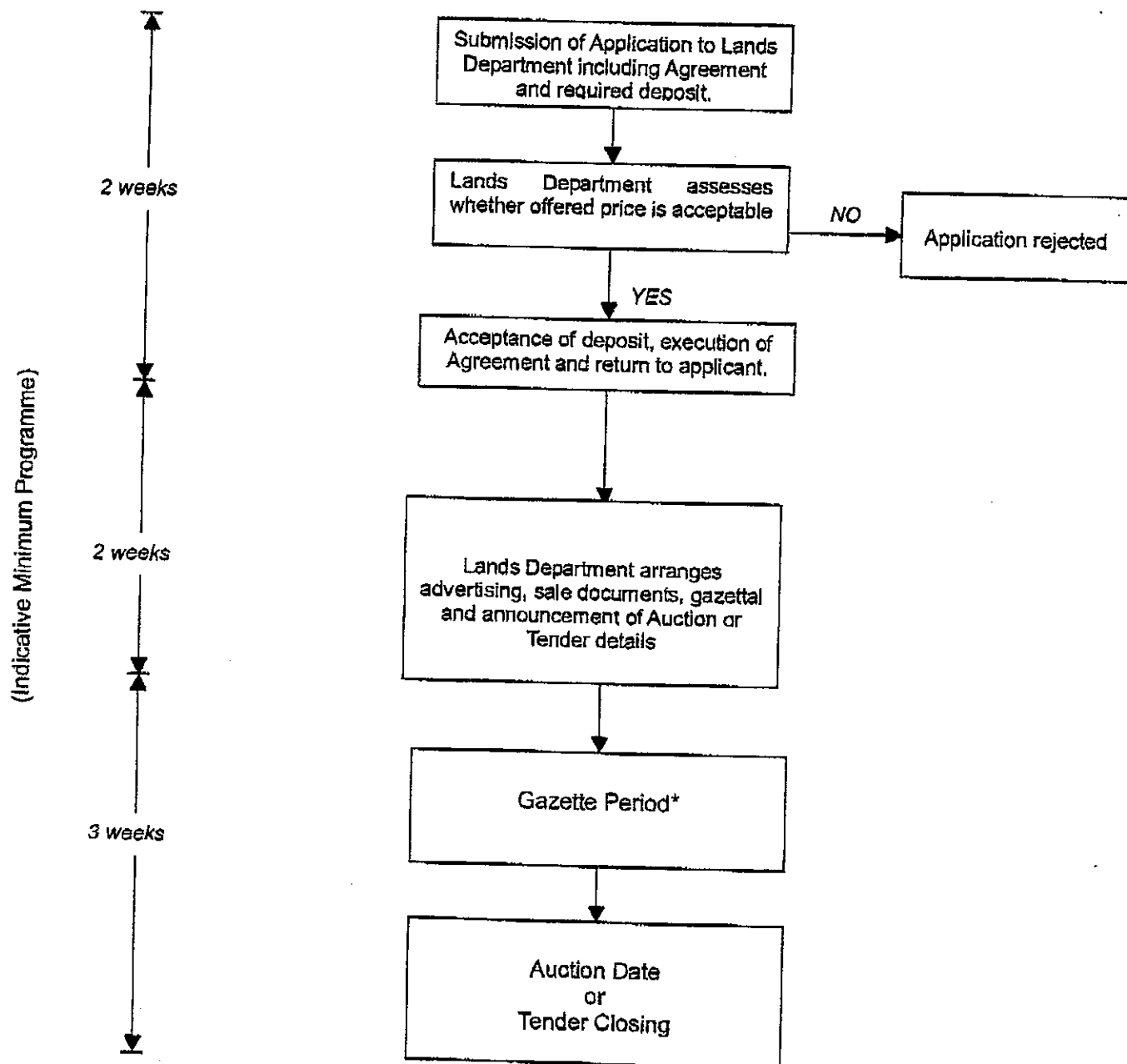
In the event that the applicant fails to tender at or above the minimum price or withdraws the tender prior to the award of the tender, then the deposit will be forfeited.

Practice Note No. 1/2005 is hereby superseded.



(Patrick L C Lau)
Director of Lands
21 June 2005

Revised Application Procedures



*(two consecutive weeks)

Appendix II

Application Form

Director of Lands,
Lands Department,
20/F, North Point Government Offices,
333 Java Road,
Hong Kong.

Date :

Dear Sirs,

Lot No. : _____

I hereby apply for the above lot shown on your Application List. I am prepared to bid a minimum price of HK\$ _____ for the lot.

I enclose (i) an Agreement for Auction or Tender Cases duly executed and (ii) a cheque or cashier order in an amount equivalent to 10% of the minimum price, subject to a maximum of HK\$50 Million, being the deposit and certified good for payment up to 3 months from the date of this letter.

I understand that you will inform me within two weeks whether my application is successful or not.

Yours faithfully,

On behalf of *

** Please insert the name of the company, contact address and telephone number(s)*

Note : *The completed application form should be submitted in a sealed plain envelope marked "For the attention of the Director of Lands" and delivered either by hand or by registered post to the above address.*

Rev. 3/2005

Appendix III

Agreement for Auction or Tender Cases

AGREEMENT made the day of 20 BETWEEN the Government of
the Hong Kong Special Administrative Region ("the Government") of the one part and
 (hereinafter referred to as "the Applicant") of the other part.

It is agreed as follows :-

1. In consideration of the offer of HONG KONG DOLLARS (HK\$
(hereinafter referred to as "the minimum price") made by the Applicant for the purchase of the lot of Government land to be known as (hereinafter referred to as "the lot") and the sum of HONG KONG DOLLARS (HK\$
(hereinafter referred to as "the deposit") (the receipt whereof is hereby acknowledged) paid by the Applicant as evidence of the Applicant's genuine intention to bid for the lot, the Director of Lands (hereinafter referred to as "the Director") shall cause the Conditions of Sale by Auction or by Tender of the lot to be prepared and issued. The auction date or the tender closing date will be published in the Government of the Hong Kong Special Administrative Region Gazette in due course.
2. The Director shall be at liberty to withdraw the lot from sale at any time and in that event the deposit paid shall be returned to the Applicant in full but without interest. Upon return of the deposit, this Agreement shall terminate and the Applicant shall have no further claim of any kind whatsoever against the Government.
- 3.(I) (a) If the lot is offered for sale at public auction and there is no bid in an amount equivalent to or more than the minimum price, the deposit shall be forfeited.
(b) If the lot is sold at public auction to a purchaser other than the Applicant, the deposit will be returned in full to the Applicant, but without interest.
(c) If the Applicant bids successfully for the lot at public auction, the deposit will be treated as the deposit required to be paid on the fall of the hammer and the Applicant shall pay the balance of the premium in accordance with the Conditions of Sale by Auction of the lot.
(d) Cheques or cashiers orders tendered in payment of the deposit will be held uncashed by the Government pending the result of the auction.
(e) If, for any reason, the lot is not made available for sale within three months from the date of this Agreement, the deposit cheques or cashier orders referred to in sub-clause (I)(d) of this paragraph will be returned to the Applicant but without interest and this Agreement will terminate and neither party will have any further claims against the other arising out of the terms hereof.

- (II) (a) If the lot is offered for sale by public tender and in the event that the Applicant fails to tender at or above the minimum price or withdraws the tender prior to award of tender, the deposit will be forfeited.
 - (b) If a tender is submitted in the name of the Applicant, the deposit under this Agreement will be treated as the deposit required to be submitted with the Form of Tender and the Applicant will not be required to submit a separate cheque or cashier order with its tender provided that, by executing this Agreement, the Applicant hereby acknowledges that the deposit remains subject to all the terms and conditions of this Agreement.
 - (c) Subject to sub-clause (II)(b) of this paragraph and if the Applicant bids successfully for the lot by tender, the deposit will be applied in part payment of the premium tendered and the Applicant will pay the balance of the premium in accordance with the Conditions of Sale by Tender of the lot.
 - (d) Cheques or cashiers orders tendered in payment of the deposit will be held uncashed by the Government pending the award of the tender.
 - (e) If, for any reason, the lot is not made available for sale within three months from the date of this Agreement or the Applicant tenders at or above the minimum price but his tender is not accepted, the deposit cheques or cashier orders referred to in sub-clause (II)(d) of this paragraph will be returned to the Applicant but without interest and this Agreement will terminate and neither party will have any further claims against the other arising out of the terms hereof.
- 4. Nothing herein contained will prejudice the terms and conditions upon which the lot is to be sold and except as provided in Clause 3 (I)(c) or (II)(b) hereof (as the case may be), nothing herein contained shall be construed as modifying the Conditions of Sale by Auction or by Tender of the lot.
 - 5. If the deposit is forfeited under the terms of this Agreement, neither party shall have any further claim whatsoever against the other arising out of the terms hereof.
 - 6. The Government is not bound to sell at any bid submitted by the Applicant for the lot.

IN WITNESS whereof the Assistant Director/Lands Department, being duly authorized by the Chief Executive of the Hong Kong Special Administrative Region so to do, has signed this Agreement on behalf of the Government and the Applicant has/have set his/their hand(s)/and seals hereto the day and year first above written.

Witness to the signature of the Applicant :

Signature of the Applicant/Seal of the
Applicant and authorized signature(s)
(if the Applicant is a corporation) :

.....
Name in Capital Letters :

.....
Name in Capital Letters :

.....
H.K.I.D. Card No

.....
Address

.....
Witness to the signature of
Assistant Director/Lands Department

.....
For and on behalf of the
Chief Executive of the Hong Kong
Special Administrative Region

.....
Civil Servant
Lands Department

.....
Assistant Director/Lands Department