

**CONTROLLING OFFICER'S REPLY**

**(Question Serial No. 3635)**

Head: (60) Highways Department

Subhead (No. & title): (000) Operational expenses

Programme: (1) Capital Projects

Controlling Officer: Director of Highways (YAU Kwok-ting)

Director of Bureau: Secretary for Transport and Logistics

Question:

The Highways Department (HyD) has been implementing the “Universal Accessibility” (UA) Programme and the Hillside Escalator Links and Elevator Systems (HEL) Projects for years, as well as constructing barrier-free access facilities such as elevators and ramps at public places according to schedule. Will the Government advise this Committee on the following:

1. How many projects were delayed resulting in the postponement of completion dates in each of the past five years in Hong Kong?
2. How many projects were taken back and re-commenced resulting from the incompleteness of works in each of the past five years in Hong Kong (please list the project numbers and project locations in details)?
3. Regarding the project delay caused by the contractor, the HyD indicated that relevant procedures will be strictly complied with in order to urge the contractor to complete the remaining works as soon as possible, including issuing warning letters and “Adverse Reports”. How many warning letters and “Adverse Reports” were issued in each of the past five years?
4. The HyD indicated that by strictly following the terms of works contracts to recover from the relevant contractor the delay damages arising from delays in parts of the works as well as the additional costs resulted from the recommencement of relevant works will be recovered from relevant contractor. Over the past five years, what are the respective total amounts of liquidated damages and the additional costs resulting from the recommencement of relevant works that have to be recovered?
5. Further to the above question, what are the percentages of successful recovery of the delay damages and the additional costs resulting from the recommencement of relevant works? What are the total amounts successfully recovered over the past five years?

6. Numerous works were delayed because of reasons such as taking back of works contracts resulting from the incompleteness of works etc. Did the Government have any optimizing proposals to preclude the aforesaid situation?

Asked by: Hon LEUNG Hei, Edward (LegCo internal reference no.: 154)

Reply:

1. and 2.

Over the past five years (2019 to 2023), 12 items under the “Universal Accessibility” (UA) Programme were delayed, resulting in the postponement of completion dates. All these 12 items under Contract No. HY/2018/12 were delayed due to the unsatisfactory performance of the contractor.

The Highways Department (HyD) has already taken back the remaining nine items among the aforesaid 12 items and included them with the other items under the UA Programme into a new contract and it was tendered out on 1 March 2024, striving to recommence the works in mid-2024. The details of these nine projects are as follows:

Structure No.	Location
KS43	Across Chun Wah Road near Lok Wah South Estate
KF73	Across Tung Tau Tsuen Road near Tung Lung Road
HF76	Across Island Eastern Corridor near Shun Tai Road
HF138	Across Siu Sai Wan Road near Bus Terminus
K64	Across Hung Hom Road near Dyer Avenue
SSP01	Across Tai Hang Tung Road near Nam On House of Nam Shan Estate and Tung Fai House of Tai Hang Tung Estate
SSP02	Across Tai Hang Tung Road near Tung Lung House and Tung Yu House of Tai Hang Tung Estate
KF92A	Across Lung Poon Street near Fung Tak Road
HS14	Across Shun Tai Road near Wing Tai Road Garden

Under the Hillside Escalator Links and Elevator Systems (HEL) Projects, the items namely “Lift and Pedestrian Walkway System at Chueng Hang Estate, Tsing Yi” and “Lift and Pedestrian Walkway System between Kwai Shing Circuit and Hing Shing Road, Kwai Chung” were delayed for about one and a half months and three months respectively. The relevant works were completed and the facilities were already opened for public use. No items under these Projects require retender due to incompleteness of works caused by the contractor.

3. to 5.

The HyD will conduct a quarterly assessment of contractors’ performance on works contracts according to the Contractor Management Handbook. The assessment scope included workmanship of works, progress of works, site safety etc. If the performance of contractors are rated as “very poor” in the quarterly assessment, the HyD will issue “Adverse Report” and warning letter.

Over the past five years, the HyD has issued eight warning letters and eight “Adverse Reports” to contractors with unsatisfactory performance among all on-going works contracts under the

UA Programme. At the same time, the HyD is, in accordance with the mechanism of contract, handling and calculating the amounts of delay damages arising from the delays and the additional costs resulting from the recommencement of relevant works that have to be recovered from the contractor under Contract No. HY/2018/12.

For the works contracts under the HEL Projects, the HyD has issued three warning letters and three “Adverse Reports” to the relevant contractors. The HyD has successfully recovered the liquidated damages amounted to about \$1.15 million caused by the project delay from the contractor responsible for the item “Lift and Pedestrian Walkway System at Cheung Hang Estate, Tsing Yi” according to the contractual requirements. For the item “Lift and Pedestrian Walkway System between Kwai Shing Circuit and Hing Shing Road, Kwai Chung”, the HyD is handling and calculating the amount of liquidated damages according to the mechanism of the contract.

6.

At present, according to the prevailing mechanism for the management of the List of Approved Contractors for Public Works, procurement of public works contracts and management system of projects established by the Government, apart from considering the tender prices of the tenderers, their past performance in public works contracts, etc., the financial capability of the tenderer with the highest score and whether the tender price is reasonable will also be scrutinized. This is to ensure that the successful tenderer is capable (including financially capable) of completing the works in accordance with the contractual requirements. Only the tenderer who passes the financial vetting and satisfies the relevant financial requirements will be awarded the contract.

The HyD will continue to strictly monitor the progress of the project items during the construction stage to ensure that the contractor will comply with the contract obligation for timely completion of all works. If the works progress is affected by the unsatisfactory performance of the contractor, we will first issue a warning letter to the contractor and urge the contractor to immediately allocate resources to speed up works progress. Besides, the Government will also explore to re-sequence works and other delay recovery measures with the contractor with a view to completing the remaining works as soon as possible. The unsatisfactory performance of the contractor will be reflected in his performance report as well. If the situation continues, the Government will take regulatory action according to the Contractor Management Handbook and relevant guidelines, which includes suspending the contractor from tendering or even removing their names from the List of Approved Contractors for Public Works. The HyD will also recover delay damages resulted from project delays from the contractor in accordance with the contractual requirements and the established mechanisms.

The aforesaid matter of an individual contractor’s unsatisfactory performance leading to the taking back of incomplete works under relevant works contract is an isolated case. The HyD has already dealt with it according to established procedures.

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