

Recycling Fund – Enterprise Support Programme (ESP)
Guidance Notes for Applications on Relocation Rental Support Project

This set of Guidance Notes applies to applications of **Relocation Rental Support Project (RRSP)** under the Enterprise Support Programme (ESP) and should be read in conjunction with the **Guide to Application for the Recycling Fund (Enterprise Support Programme) (Guide to Application (ESP))**. For areas not specifically mentioned in this set of Guidance Notes, the general requirements set out in the Guide to Application (ESP) will continue to apply. The Advisory Committee on Recycling Fund (RFAC) and the Secretariat of Recycling Fund (the Secretariat) reserve their right to change any requirements or to decide how requirements should be interpreted / implemented at any time without prior notice.

1 Background

1.1 In order to provide targeted assistance to facilitate recyclers to upgrade their operation efficiency and enhance their capability in industrial premises, a streamlined programme is available for applicants to implement Relocation Rental Support Project (RRSP) under the Enterprise Support Programme (ESP) projects. Details of RRSP are set out in this set of Guidance Notes.

2 Funding Scope

2.1 Funding scope is set out as follows:

To provide rental support on operation site and associated car parking spaces (if applicable) to the applicants, given that the applicants will relocate from existing operation sites including street-corner shops and other improper sites to appropriate operation sites such as industrial buildings or lands zoned for industrial purpose which will enhance the operation of the recyclers. Since this type of project is for relocation only, there is no need for applicant to fulfill additional throughput quantities and conduct quantity audit of the projects.

3 Funding Amount and Principles

- 3.1 The funding ceiling for each RRSP application is HK\$15 million.
- 3.2 RRSP should be a one-off rental relocation support for each successful applicant and no funding would be provided for further relocation of operation sites.
- 3.3 Funding would be granted on a matching basis, i.e. the Government will cover a maximum of 50% of the total approved project cost and the applicant has to contribute no less than 50% of the total approved project cost in cash.
- 3.4 The cumulative funding ceiling and the number of approved projects per applicant¹ should make reference to that of ESP. Funding for RRSP will count towards the cumulative funding ceiling and the maximum number of approved projects under the ESP.
- 3.5 Each application should be completed within 48 months.
- 3.6 Application may be rejected if it is made to circumvent any prescribed limit and requirement under the ESP. The approved funding amount should exclude utilities, rental deposit and rental expenses of assets provided in the premises, such as furniture and equipment, etc.

4 Application Submission

- 4.1 Applicant is required to fill in the latest designated RRSP application form.
- 4.2 For budgetary items, applicants are required to provide the latest market rent² of each relocation site assessed by Rating and Valuation Department (“RVD”) to the Secretariat as supporting document. In case if market rent assessed by RVD is not available, applicants can also provide the comparable rental reference or other relevant supporting document for consideration³.

¹ For details of the cumulative funding ceiling and the number of approved projects per application, please refer to paragraph 3.1.6 of Guide to Application (ESP).

² For details information of the market rent, please refer to the RVD website.

³ As a one-off special arrangement for 14th batch application (applications from 1 December 2018 – 28 February 2019) to 16th batch application (applications from 1 June 2019 – 31 August 2019), the Secretariat would consider tenancy agreement executed on or after 1 January 2019 as supporting document.

- 4.3 The applicant is required to provide current and preceding year documentary proof of the shareholders (such as Annual Return or Electronic extract of information on the Business Register, etc.).
- 4.4 The applicant should note that the Secretariat will consider the date of signing the tenancy agreement of the relocation site with maximum of 3 months before date of application submission as supporting document for consideration. If the date of signing the tenancy agreement of the relocation site falls outside 3 months before the date of application submission, such application will not be considered unless advised otherwise by the Secretariat.
- 4.5 The applicant should note that the RFAC / Government is not bound to approve the application or grant the full amount requested by the applicant for the project during the application assessment and consideration of the actual grant subject to the actual situation, change of shareholding, relevancy of recycling operation, handling of local recyclables and reasonableness of the applications and the applicant may have to bear the full or remaining cost of the project.

5 Assessment Procedures

- 5.1 Applications will be assessed according to the following procedures:
- (a) The Secretariat will conduct an initial assessment of all applications and may seek clarification or request supplementary information from the applicants and / or other related parties during the vetting process as necessary. On-site meetings or inspections may be conducted to verify the provided information.
 - (b) The amount of funding support would be firstly determined by market rent as assessed by RVD. Further consideration of the amount would be subject to factors as stipulated in paragraph 4.4. If market rent assessed by RVD is not available, applicants can also provide the comparable rental reference or other relevant supporting documents for consideration.
 - (c) The Secretariat will also check with Lands Department and Planning Department on the appropriateness of the existing sites and proposed sites.

- (d) The Secretariat will assess on applicant's justification on how the relocation of operation sites would enhance their operation capacity in terms of loading efficiency, carrying capacity, nuisance and disturbance to the surroundings, etc.
- (e) The Secretariat will assess on any change of company status such as change of shareholders, etc. within 1 year before the date of application and during the project period. Applicants of spinoff companies of which the preceding owners continue their business on the existing operation sites will not be considered.
- (f) The RFAC will further assess all applications having regard to the results of the initial assessment carried out by the Secretariat. The RFAC will formulate its recommendations on the approval or otherwise of the applications, the amount to be supported and the terms and conditions for approving the funding, for consideration by the Government.
- (g) The Government will further assess all applications having regard to the recommendations of the RFAC. Based on the advice of the RFAC, the Government would decide whether to approve the applications.

6 Vetting Criteria

6.1 The guiding principles for vetting are:

- (a) Whether the project can achieve the expected benefits under the scopes of the project and has the potential to enhance the overall capability, efficiency, safety and skills of the applicants;
- (b) The project should have a reasonable and realistic budget; and
- (c) The project should aim to provide rental support to relocate from existing operation sites to proper operation sites which is expected to enhance the operation capacity of the recyclers (subject to positive replies from Lands Department and Planning Department and the reasonableness of the justification on relocation (see paragraph 5.1(d) above)).

7 Eligibility

7.1 Criteria to be eligible for RRSP are set out as follows:

- (a) Any enterprise (including but not limited to sole proprietor, partnership, private company and public company) duly established, incorporated and registered under the laws of Hong Kong or its place of incorporation with a valid business registration certificate issued under the Business Registration Ordinance (Cap 310 of the Laws of Hong Kong) for carrying on a business in Hong Kong (unless it is exempted from the requirement to apply for a business certificate under such Ordinance (where applicable)) and have substantive business operations in Hong Kong. The applicant must provide documentary evidence proving its substantive business operations at the time of application. Such evidence can be employee records, tax returns, business transaction documents such as business contracts, invoices, etc.⁴; and
- (b) The applicant should have been involved in recycling related operation with a proven track record for at least 1 year before submitting an application to the Recycling Fund.

7.2 The Secretariat / RFAC will reject those applications submitted by enterprises deliberately using different business registrations (BRs) to circumvent the funding ceiling per enterprise (see paragraph 3 above). Applicants whose related persons have previously applied for grant under the Recycling Fund will be treated as one single entity and consequentially all applications for the Recycling Fund will be subject to the prevailing cumulative funding ceiling per entity of HK\$15 million.

7.3 The applicant should be already occupying the existing operation sites for at least 1 year.

7.4 Projects which are or will be in receipt of other Government or public funding support will not be considered.

⁴ For details of the documents that may serve as the relevant proof, please refer to Annex 1 of Guide to Application (ESP).
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8 Funding Arrangement

- 8.1 Applicants are not required to open a separate project bank account for the sole purpose of processing all payments relating to the project. The applicant is, however, still required to keep proper and separate books and records for expenses incurred under the project as required in paragraph 11.1 of this Guidance Note.
- 8.2 There will be no upfront payment to the applicants. Disbursement of funds could be made by interim / final payments to the applicant on a reimbursement basis when the following documents are accepted by the RFAC and Government:
- (a) Submission of the claim form to the Secretariat within 1 month following the reporting period / the end of the project period;
 - (b) Supporting documents including but not limited to: stamped tenancy agreements, invoices, receipts, photographs of existing and new site etc. demonstrating the relocation and ongoing status of the funded project; and
 - (c) The RFAC / Secretariat is satisfied that there is a reasonable prospect for the applicant to complete the remaining project as proposed and scheduled in the approved application form.
- 8.3 The applicants have the option to apply for funding disbursement every 6 months or 12 months. Applicants are required to submit claim form and supporting documents to the Secretariat within 1 month after each of the relevant 6-month or 12-month reporting period until project completion.
- 8.4 The applicants should immediately provide clarification and additional information on the contents of the claim form upon request of the Secretariat. The Secretariat may conduct on-site checking, including random, surprise and routine inspections, to verify the project progress and results and/or completion of the tasks and deliverables for individual projects. The Secretariat has the right to request access to any information related to the project.
- 8.5 In the case where the claim form is rejected by the RFAC and / or the Government, the applicant should resubmit the documents within 1 month after the relevant notification by the Secretariat.

- 8.6 The actual grant will be determined by the RFAC and Government having regard to the actual project cost incurred as presented in the claim form, rental stipulated in the stamped tenancy agreement or expense shown in the official receipts, whichever the lowest. The actual grant is also subject to any adjustment having regard to factors stipulated in paragraph 4.4 and 8.7.
- 8.7 If the applicant completes the project without fully meeting the proposed objectives (e.g. the grantee moves out from an acceptable site) and requirements of the RRSP, the RFAC / Government reserves the right to reduce the approved funding by an amount that is based on the progress already made in implementing the project and/or other factors deemed relevant. The RFAC / Government has sole discretion to disburse any amount of the payment if the project objectives are not met.
- 8.8 Neither the Government nor the Secretariat, whether on its own account or for and on behalf of the Government, makes any representation or warranty, by virtue of the Government's Grant hereunder, as to the safety, value or utility of the Project. Nothing done by the Government or Secretariat shall be treated as an endorsement of the project or of the applicant, nor shall the name of the Government be used for any purpose by the applicant or be publicized in any way by the applicant.
- 8.9 All relevant project expenditure incurred as early as the following day after the date of application submission can be recognized and funded, provided that the application is approved by the RFAC and the applicants have followed the prevailing requirements set out in this Guidance. The applicants shall bear the risk that the application could be rejected or the approved funding amount could be deducted.

9 Financial and Budgetary Control

- 9.1 The applicants shall seek prior consent from the Secretariat for varying the approved budget by reallocation the projected expenditure amount for one item to another from time to time provided that:
- (a) any internal reallocation of expenditure shall be among the approved expenditure items as stated in Approved Budget;

- (b) no reallocation from one original expenditure item to another shall exceed 20% in total of the amount originally approved for the original expenditure item or in the value of up to HK\$60,000, whichever the lower; and
- (c) the reallocation shall not adversely affect the quantity and quality of any project deliverables under the project.

If any reallocation of expenditure exceeds the limit as stated in paragraph 9.1 (a) or (b) above, the applicant shall apply in writing to obtain the prior written approval from the Secretariat with supporting documentary evidence to demonstrate the need and benefit for such reallocation of funds. The Secretariat may in its sole discretion determine whether or not to grant its approval, and approval will be granted based on full justification.

The above is only applicable to situations where and there is no change to the project deliverables. In addition, the revised approved budget shall comply with the relevant rules in the Guide to Application (ESP) and this Guidance Notes.

10 Obligations, undertaking and indemnity

10.1 The applicants should warrant and undertake and with continuing effect throughout the continuance of the project duration that:

- (a) it shall have been duly established, incorporated and registered under the laws of Hong Kong or its place of incorporation with a valid business registration certificate issued under the Business Registration Ordinance (Cap 310 of the Laws of Hong Kong) for carrying on a business in Hong Kong (unless it is exempted from the requirement to apply for a business certificate under such Ordinance (where applicable)) and shall have substantive business operation in Hong Kong throughout the project duration;
- (b) it shall, upon request, allow and facilitate the Secretariat, the Government or any person on behalf of the Secretariat or the Government to enter at all reasonable times into and upon any premises of or controlled by the applicant, where any document or record pertaining to the Project is kept or any item arising out of the Project is being carried out, experimented, manufactured, displayed or stored, for the purpose of inspection or copying, or for verifying the accuracy of any information given by the applicant to the Secretariat or the Government, or otherwise verifying that the applicant has complied with its obligations under the terms of the project;

- (c) it shall comply in all respects (including the giving of all the necessary notices, the paying of all necessary fees and the obtaining of all necessary licences, consents and approvals) with all the provisions of all legislations, regulations and by-laws applicable to the project, including but not limited to, the Employment Ordinance (Cap. 57), the Employees' Compensation Ordinance (Cap. 282), the Mandatory Provident Fund Schemes Ordinance (Cap. 485), the Occupational Safety and Health Ordinance (Cap. 509), the Minimum Wage Ordinance (Cap. 608), the Summary Offences Ordinance (Cap. 228), the Fixed Penalty (Public Cleanliness And Obstruction) Ordinance (Cap. 570), the Noise Control Ordinance (Cap 400), the Air Pollution Control Ordinance (Cap 311), the Waste Disposal Ordinance (Cap 354), the Water Pollution Control Ordinance (Cap 358) and the Environmental Impact Assessment Ordinance (Cap 499), and other legislations, regulations and by-laws pertaining to the health and safety of any persons who are or will be employed by the applicant in relation to the operation of the project and the carrying out of the applicant's obligations under the terms of the project.

10.2 The applicants shall indemnify and keep indemnified each of the Government, the Secretariat, each member of the Advisory Committee and any assigns and successors-in-title of each of them (collectively "Indemnified Parties") fully and effectively indemnified against (i) all losses, damage, liabilities, and costs (including all legal fees and other awards, costs, payments, charges and expenses on a full indemnity basis) suffered or incurred by an Indemnified Party; and (ii) all action, proceedings, claims, and demands threatened, brought or established against an Indemnified Party (whether or not successful, compromised, settled, withdrawn or discontinued) (collectively, "Third Party Claims"); and everything mentioned in (i) above due to such Third Party Claims, which in any case arise directly or indirectly in connection with, out of or in relation to:

- (a) any breach of the terms of the project by the applicants, regardless of whether such breach was caused by the applicants or any member of the project team; or
- (b) any act or omission or negligence of the applicants or any member of the project team in the implementation of the project; or
- (c) any allegation or claim that the use, operation or possession of the project deliverables or the Materials or the exercise by an Indemnified Party of any right granted under the funding agreement in relation to such Materials infringes any intellectual property rights (IPRs) of any persons; or

- (d) any warranties or representations made by the applicant in the funding agreement, or in the Approved Proposal or in the Approved Budget or in any document (including in any of the Reports) or information provided by the applicant to the Secretariat, Advisory Committee or the Government from time to time being untrue, misleading, forged or incomplete; or
 - (e) any failure of the applicants or of the project team to comply with or observe any applicable law or regulation (regardless of the law or regulation of which jurisdiction in the implementation of the project).
- 10.3 The applicant shall endeavour to avoid creating obstruction of public places in implementing the project. The applicant shall also observe that illegal shopfront extensions can be issued with Fixed Penalty Notices under the Fixed Penalty (Public Cleanliness & Obstruction) Ordinance on top of summonses for the obstruction of public places.
- 10.4 The applicant and its related person shall not rent nor occupy the existing operation sites for the recycling operation during the project period. The applicant shall not transfer nor sell its business and operation of the existing sites to any other third party. The applicant shall leave the existing operation sites vacant by removing all recyclables and equipment under applicant's possession. The applicant shall provide documentary proof to the Secretariat (such as tenancy agreement which stated that fixtures are provided by landlord) if any assets shall remain in the existing operation sites.
- 10.5 The applicant must maintain its eligibility as set up in sub-section 7 and paragraph 5.1(e) throughout the period of project implementation.

11 Recordkeeping Requirement

- 11.1 The grantee shall also keep proper and separate books and records for project expenses incurred during the project period and retain the books and records for at least 7 years after the completion of the project and submit or make available all such supporting documents to the Secretariat upon request.

12 Contractual Requirements

- 12.1 Successful applicants of RRSP shall sign an undertaking form. They shall carry out and complete the project in accordance with the undertaking form, Guide to Application (ESP), this Guidance Notes, the approved project proposal, the approved budget and all requirements and directives as may from time to time be prescribed or given by the Secretariat or the Government in writing whether specifically to the applicant or generally to all applicant of the Fund.
- 12.2 Applicants are allowed to publicise their implementation of the projects funded under the Programme and the project results on their own initiatives through publications, seminars, workshops, conferences, exhibitions, site visits, etc. with prior notice to the Government / Secretariat.

13 Probity Clause

- 13.1 The applicant shall observe the Prevention of Bribery Ordinance (Cap. 201) (“PBO”). Applicants shall not, and shall procure that its project team, directors, employees, agents, suppliers, consultants, contractors and other personnel who are in any way involved in the project shall not, offer to or solicit or accept from any person any money, gifts or advantages (as defined in the PBO) in relation to the project.
- 13.2 The offer of an advantage to the Secretariat or any member of the RFAC / Government with a view to influencing the approval of an application is an offence under the PBO. Any such offer by the project team, directors, employees, agents, consultants, contractors and other personnel who are in any way involved in the project will render the application null and void. The Government may also cancel the application approved and hold the applicant liable for any loss or damage which the Government may sustain.
- 13.3 The applicant is also advised to observe the guidelines set out in the *Best Practice Checklist – Strengthening Integrity and Accountability – Grantee’s Guidebook* compiled by the ICAC in order to execute the Funding Agreement in an ethical and accountable manner which meets the public expectation.