

**Documents and Information Required
for Application to Engage A Qualified Person
under the Electronic Transactions Ordinance (Cap. 553)**

This “Documents and Information Required for Application to Engage A Qualified Person under the Electronic Transactions Ordinance (Cap. 553)” supersedes the same document published in July 2004.

2. Section 20(3)(b) of the Electronic Transactions Ordinance (Cap. 553) (“Ordinance”) specifies that a certification authority (“CA”) seeking recognition must furnish to the Government Chief Information Officer (“GCIO”) a report which contains an assessment as to whether the CA is capable of complying with such provisions of the Ordinance and of the Code of Practice for Recognized Certification Authorities (“Code of Practice”) as are specified in the Code of Practice (such provisions are specified under paragraph 1 of Appendix 2 of the Code of Practice).

3. Under section 27(5A)(b) of the Ordinance, a recognized CA applying for renewal of recognition must furnish to the GCIO a report which contains an assessment as to whether the recognized CA is and is capable of complying with such provisions of the Ordinance and of the Code of Practice as are specified in the Code of Practice (such provisions are specified under paragraph 1 of Appendix 2 of the Code of Practice).

4. Under section 43(1)(a) of the Ordinance, at least once in every 12 months, a recognized CA must furnish to the GCIO a report which contains an assessment as to whether the recognized CA has, for the period to which the report relates, complied with such provisions of the Ordinance and of the Code of Practice as are specified in the Code of Practice (such provisions are specified under paragraph 1 of Appendix 2 of the Code of Practice).

5. Under section 43A(1)(c) of the Ordinance in relation to major changes of a recognized CA, the GCIO may require the recognized CA to furnish to the GCIO a report which contains an assessment as to—

- whether, having regard to the major changes that have occurred, the recognized CA is and is capable of complying; or
- whether, having regard to the major changes that will occur, the

recognized CA is capable of complying

with such provisions of the Ordinance and of the Code of Practice as are specified in the Code of Practice (such provisions are specified under paragraph 3 of Appendix 2 of the Code of Practice).

6. A CA or a recognized CA shall apply in writing to the GCIO for approval that the person whom the CA or the recognized CA intends to engage for the preparation of an assessment report is a qualified person under section 20(3)(b), 27(5A)(b), 43(1)(a), or 43A(1)(c) respectively. The CA or the recognized CA shall furnish to the GCIO the following documents and information in respect of the application:

- (a) Original statement(s) jointly or separately made and signed by the person who wishes to be a qualified person (the Potential Assessor) and by the individual (the Responsible Individual) who will sign the assessment report, stating that:
 - i) the Responsible Individual together with members of the assessment team acting or working for the Potential Assessor will prepare the assessment report;
 - ii) the Responsible Individual together with members of the assessment team acting or working for the Potential Assessor shall meet the qualifications set out in paragraph 12.2 of the Code of Practice;
 - iii) the Responsible Individual meets the requirements and shall bear the responsibilities set out in paragraph 12.3 of the Code of Practice;
 - iv) the Responsible Individual will ensure that the assessment report is prepared in accordance with the Guidance Note on Compliance Assessment of Certification Authorities;
 - v) the information provided in the statement is, to the best of the knowledge and belief of the Potential Assessor and the Responsible Individual, true and accurate up to the moment the Potential Assessor and the Responsible Individual sign the statement; and
 - vi) the Potential Assessor and the Responsible Individual have read and understood section 47 of the Ordinance in respect of the consequences of making or furnishing any declaration, return,

certificate or other document or information which is untrue, inaccurate or misleading.

Certified copies of the statement are not accepted.

- (b) Original statement(s) jointly or separately made and signed by the Potential Assessor, the Responsible Individual and members of the assessment team acting or working for the Potential Assessor stating that:

"Under section 43(3) or 43A(3) of the Ordinance, the GCIO must publish in the certification authority disclosure record for [name of the CA] the date of the assessment report and the material information in the assessment report, and under section 31(2) of the Ordinance, the GCIO must publish in the certification authority disclosure record information regarding [name of the CA] relevant for the purposes of the Ordinance. It is also acknowledged that, accordingly, [name of the CA] may be asked by the GCIO to grant him an express waiver of confidentiality and an express copyright licence enabling him to publish the material information in the assessment report. We/I acknowledge that [name of the CA] has the right to grant such a waiver of confidentiality and copyright to the GCIO, and that there is no breach of any duty of confidence owed by [name of the CA] to us/me and no infringement of our/my copyright of the assessment report by [name of the CA] if [name of the CA] grants such a waiver of confidentiality and copyright licence to the GCIO for the purpose of section 31(2), 43(3) or 43A(3) of the Ordinance."

- (c) In case the Responsible Individual and members of the assessment team do not own the intellectual property rights of the assessment report, and therefore would not be in a position to make the statement as mentioned under (b) above, an original statement as mentioned under (b) above made and signed by the Potential Assessor AND original statement(s) jointly or separately made and signed by the Responsible Individual and members of the assessment team stating that:

“The assessment report for the independent assessment of the Certification Authority operated by [name of the CA] will be prepared by us/me in the course of our/my employment by [name of the Potential Assessor]. Copyright and other intellectual property rights in the assessment report shall be owned by [name of the Potential Assessor]. We/I declare that we/I

do not own any copyright and any other intellectual property rights in the assessment report. Consent or licence for the use or publication of the assessment report (or any part thereof) or waiver of confidentiality for the disclosure of the assessment report (or any part thereof) should be sought from [name of the Potential Assessor].”

Certified copies are not accepted.

- (d) An original letter from the professional organisation or association, which the Responsible Individual belongs to, confirming that the Responsible Individual is a member of the organisation or association with good standing and that the Responsible Individual is currently holding the relevant practising certificate. The letter should be issued by the organisation or association within one month from the date of application for approval as a qualifier person. Certified copies are not accepted.
- (e) A list of members of the assessment team which will prepare the assessment report and their individual experiences and qualifications relevant for the preparation of the assessment report, with particular regards to the skills requirements set out in paragraph 12.2 of the Code of Practice. The experiences of members of the assessment team should be presented on a project-by-project basis, including without limitation:
 - i) a brief description of each project, preferably with the name of the client;
 - ii) the role and responsibility of each member of the assessment team in each project; and
 - iii) duration of involvement by each member of the assessment team in each project.
- (f) For performing the financial review as part of the assessment, the team member concerned should be a registered member holding the relevant practising certificate of a professional organisation or association in the accounting discipline which meets the requirements as set out in 12.5 of the Code of Practice with documentary proof.
- (g) A description of the methodology and standards to be adopted for the purpose of performing the assessment.

- (h) If the Potential Assessor is a company incorporated under the Companies Ordinance (Cap. 622), a certified true copy of the certificate of incorporation and the business registration certificate of the Potential Assessor.
- (i) If the Potential Assessor is a partnership, a certified true copy of the business registration certificate of the Potential Assessor.
- (j) If any of the above particulars and documents are to be certified, the particular and document shall be certified by an independent solicitor, commissioner for oaths or a notary public.

(Please note:

- a reference to a solicitor is a reference to a person who is a solicitor qualified to act as such under the Legal Practitioners Ordinance (Cap. 159);
 - commissioner for oaths means a commissioner for oaths duly appointed by the Chief Justice under any enactment in force in Hong Kong; and
 - notary public, in relation to Hong Kong, means a notary public registered under the Legal Practitioners Ordinance (Cap 159), and in relation to a place outside Hong Kong, means a person duly authorized to take declarations under the laws of that place).
- (k) If any of the particulars and documents are submitted via electronic mail, the submission would be governed by the provisions of the Electronic Transactions Ordinance (Cap. 553) and should be sent to the email address: caro@ogcio.gov.hk.

Office of the Government Chief Information Officer
The Government of the Hong Kong Special Administrative Region
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