

**Construction Industry Council**

**Committee on Construction Procurement**

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Meeting No. 002/16 of the Committee on Construction Procurement was held on Thursday, 23 June 2016 at 2:30pm at Meeting Room No. 1, CIC Headquarters, 15/F, Allied Kajima Building, 138 Gloucester Road, Wanchai, Hong Kong.

Present : Stephen LAI (SLI) Chairman  
CHAN Chi-chiu (CCC)  
Robert LAM (PHL)  
Lawrence NG (LN)  
Kevin POOLE (KP)  
Wilfred WU (WSCW)  
Stephen CW KWOK for Permanent Secretary for  
Transport and Housing (Housing)  
(*on behalf of Ada FUNG*)  
HO Sing-mo (SMH) Chairperson of Task Force on NEC3  
Collaborative Contracts  
Thomas HO (KnH) Chairperson of Special Group on  
On-Demand Bonds  
TSE Chun-yuen (CYT) Chairperson of Task Force on  
Enhancements to Subcontractor  
Registration Scheme  
Benjamin CHAN Development Bureau  
(*on behalf of Francis LEUNG*)  
Jennie AU YEUNG (JAY) Independent Commission Against  
Corruption  
Danny HUNG (CSH) Hong Kong Construction  
Association  
CHOW Luen-kiu (LKC) Hong Kong Construction Industry  
Employees General Union  
Daniel LAM (DLL) Hong Kong International Arbitration  
Centre  
LEE Kai-yuen Contractor's Authorised Signatory  
Association  
(*on behalf of WONG Sing-lam*)

In Attendance : Christopher TO (CT) Executive Director  
LEE Oi-yen (OYL) Assistant Director - Registration  
Services  
Miranda YEAP (MYP) Senior Manager - Council Services

	Chi-wai LAI	(CWL)	Senior Manager - Registration Services
	Belle HO	(CYH)	Manager - Council Services
	Rocky CHO	(RYC)	Manager - Council Services
	Amy FUNG	(AyF)	Assistant Manager - Council Services
Apologies	:	Ada FUNG	(AF) For Permanent Secretary for Transport and Housing (Housing)
		Paul CHONG	(PC)
		Eliza WONG	(EWYL)
		Francis LEUNG	(FLG) Development Bureau
		Ki-cheung TANG	(KCT) Chairperson of Task Force on Standard Contract Provisions for Domestic Subcontracts
		CHUNG Ling-so	(LsC) Construction Site Workers General Union
		YUEN Hung-wai	(HWY) Hong Kong General Building Contractors Association
		WONG Sing-lam	(SLW) Contractor's Authorised Signatory Association

## **PROGRESS REPORT**

### **Action**

#### **2.1 Confirmation of the Progress Report of Meeting No. 001/16 of the Committee on Procurement and Subcontracting**

The Chairperson welcomed all Members, and in particular the new Co-opted Members, Mr. Danny HUNG and Mr. Daniel LAM joining the meeting for the first time.

Members took note of the Paper CIC/PNS/R/001/16 and confirmed the Progress Report of Meeting No. 001/16 of the Com-PNS held on Thursday, 24 March 2016.

#### **2.2 Matters Arising from the Previous Meeting of the Committee on Procurement and Subcontracting**

- (a) Item 1.3 – Work Plan and Budget for 2016 and 2017 cum Implementation Plan of Report on “Building for a Better Future - Vision 2030”

MYP reported and members took note of the expenses of the Com-CPT in the Year 2015.

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- (b) Item 1.3 – Work Plan and Budget for 2016 and 2017 cum Implementation Plan of Report on “Building for a Better Future - Vision 2030”

MYP reported that further to last Com-CPT meeting, Members were invited to consider the recommendations from the Report on “Building for a Better Future - Vision 2030” which were relevant to the scope of Com-CPT and to give suggestions for the implementation of these recommendations. No further feedback was received from Members thus the implementation plan set out would be adopted and followed up accordingly.

- (c) Item 1.4 - Proposed nomination of Co-opted Members for Committee on Procurement and Subcontracting

MYP briefed Members that following up on the suggestion of LN at the last meeting, the Hong Kong General Building Contractors Association (HKGBCA) was invited to nominate a representative as Co-opted Member in the Com-CPT and HKGBCA had nominated Mr. YUEN Hung-wai as their representative.

- (d) MYP briefed Members on the latest amendments to the Operation Framework of CIC Research Fund which was approved by the Council during the last Council Meeting held on 17 June 2016. The Chairperson of Com-CPT who was present at the Council Meeting had accepted the framework in principle.

MYP pointed out that researches conducted under the research fund framework would be separate from the budget allocated to the Com-CPT for undertaking its own initiatives.

There were currently a number of on-going or completed research projects which would be assigned to the Standing Committees for following up / endorsement and possible implementation. Accordingly, two completed research projects as shown in the PowerPoint were assigned to the Com-CPT.

Going forward, the Com-CPT would be requested to provide suggestions on the area of research to be conducted in the coming year which would warrant funding from the CIC. CIC’s Research and Development Department (R&D) would

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invite research institutes to undertake researches based on these suggestions.

Research proposals received would be shortlisted by R&D for Com-CPT's evaluation and recommendation to Com-ANF for funding approval. R&D would continue to advise on each research project throughout the process.

R&D would be asked to give a presentation in the next Com-CPT meeting in September 2016 to brief Members in more details about the Operation Framework of CIC Research Fund.

LKC remarked that of the two completed research projects mentioned, the topic of "No Saturday Site Work" was extensively discussed at the Com-CPT a few years ago without reaching a consensus. He reiterated that as workers were paid on a daily basis, "No Saturday Site Work" would only be acceptable from the union's point of view if a minimum of 20 work days was guaranteed.

CT supplemented that while "No Saturday Site Work" might create labour shortage in the short term, a research on the topic was conducted by the Hong Kong Polytechnic University to explore the feasibility in the long term. The researcher could give a presentation on their findings for Members deliberation on whether and if yes, how to implement "No Saturday Site Work".

LN suggested that Members should study the content of the research report before deciding whether "No Saturday Site Work" would be implemented.

RYC said that comment was being sought from the Hong Kong Construction Association on the final report and the final report would be distributed for Members review when finalised.

The Chairperson requested to invite Prof. Y. H. CHIANG, the lead researcher, to brief Members on his research findings at the next Com-CPT meeting.

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PHL agreed to the points raised by Members. LN further

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suggested that before Prof. Y. H. CHIANG's presentation, Members should first study the final report to see if the fundamental issues raised were dealt with by the research, and to provide relevant input if any key points were missed in the report.

The Chairperson said that a representative from Com-CPT would need to sit on the Task Force on Research. He invited interested Members to come forward and the CIC Secretariat would follow up with the representative. The Secretariat would follow up with Members via email.

The Chairperson stressed that research was an important part of the work of the Com-CPT and urged Members to provide suggestions on the area of research to pursue with respect to construction procurement.

### **2.3 Establishment of the Task Force on the Selection of Contractors**

The Chairperson announced and thanked Mr. Robert LAM (PHL) for taking up the Chairperson role of the Task Force on the Selection of Contractors.

MYP briefed Members on Paper CIC/CPT/P/005/16, which set out the proposed terms of reference and members composition for the establishment of the Task Force on the Selection of Contractors.

She reported that the Reference Materials on the Selection of Consultants was published in 2014 and the new Task Force would now focus on matters concerning the Selection of Contractors.

Instead of relying on Task Force Members to draft the reference materials, a consultant would be engaged to undertake the drafting and Task Force Members would only be required to provide information and their views and opinions for better utilisation of time and resources.

An assignment brief for the engagement of such consultant was being prepared and CIC Secretariat would go through the normal procurement procedures to identify the consultant for this task.

MYP briefed Members that the Task Force meeting procedures would be simplified, the terms of reference would be task

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orientated and there would be a fixed term for the Task Force. The term might be extended subject to the status of the tasks in progress.

DH enquired if the engagement of the consultant would follow the recommendations in the Reference Materials on the Selection of Consultants. MYP explained that the guidance provided in the Reference Materials were in relation to the procurement of consultancy service for construction projects. Those recommendations might not be applicable to the present assignment and the normal procurement procedures for general services would be followed.

PHL briefed Members that the Task Force would examine the different procurement methods for engaging contractors being used in the construction industry and identify the good and fair practices to be promulgated to construction industry stakeholders.

He also echoed the value of engaging a consultant for drafting to enable a quicker production time. Task Force Members could provide directions to the consultant and would help to ensure the finished reference materials would be generally accepted by the construction industry.

KnH suggested that sufficient and thorough consultation with all relevant stakeholders should be conducted to ensure that the outcome would be acceptable to the construction industry.

CCC praised the initiatives of the Task Force and urged Members to actively participate in its tasks and activities.

Members endorsed the terms of reference and members composition for the establishment of the Task Force on the Selection of Contractors.

## **2.4 Establishment of the Task Force on RMAA Procurement**

MYP briefed Members on Paper CIC/CPT/P/006/16, which set out the proposed scope, terms of reference and members composition for the establishment of the Task Force on RMAA Procurement.

The RMAA sector of the construction industry would be the focus among the new initiatives to be pursued by the CIC going forward

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and a Task Force on RMAA Procurement would be established under the Com-CPT to tackle the relevant issues.

JAY suggested that under the issues to be examined by the Task Force, the standard of consultants should also be included in addition to contractors in the RMAA sector. She also suggested that while the Independent Commission Against Corruption (ICAC) would be willing to contribute to the work of the Task Force, they would prefer not to be a Member of the Task Force but instead be consulted on an as needed basis.

LKC suggested that the Hong Kong Construction Industry Employees General Union would also join as a Member of the Task Force. The Chairperson welcomed their participation.

DLL expressed his reservation towards the inclusion of 全港業主反貪腐反圍標大聯盟 as a Member of the Task Group due to the lack of background information of this group.

RYC explained that the current proposed member composition was only an initial draft presented for Members' discussion. Members were invited to deliberate on the propriety of the inclusion of various stakeholders in the members composition. He further explained that the inclusion of the abovementioned group was intended to provide a representation of homeowners in the Task Force as one of the major stakeholders in the RMAA sector.

LKC acknowledged the importance of broad representation in the Task Force but it reminded Members to be careful not to open the floodgate that might lead to other groups and organisations seeking participation in the future.

The Chairperson agreed that all relevant information of the abovementioned group should be carefully studied before deciding on their involvement.

DLL offered to share his knowledge of the abovementioned group with the CIC Secretariat.

Mr. LEE Kai-yuen suggested that the Contractor's Authorised Signatory Association would join as a Member of the Task Force. The Chairperson welcomed their participation.

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CCC suggested that the Hong Kong Institution of Engineers would join as a Member of the Task Force. The Chairperson welcomed their participation.

MYP supplemented that other parties who were not Task Force Members could also be consulted on relevant matters on an ad hoc basis / as and when necessary.

KnH suggested since RMAA would involve green roofs, whether the Hong Kong Institute of Landscape Architects (HKILA) could become a Member. The Chairperson opined that the HKILA could be consulted on an as needed basis.

KnH expressed that he would consult with his colleagues of the Hong Kong Institute of Surveyors on the terms of reference and provide his comments on the proposal. He suggested that the selection of consultants and contractors could be further examined by the Task Force.

CT suggested Members to revert with their views and opinions on the proposed scope, terms of reference and members composition of the Task Force within two weeks for CIC Secretariat's consolidation and finalisation with the Chairperson.

**Members /  
CIC  
Secretariat**

The Chairperson invited those who might be interested to assume the Task Force Chairperson role in leading the work of the Task Force. He opined that someone from a contractor background would be suitable for the role. There would be considerable amount of work ahead and the candidate should above all be interested and dedicated to the subject matter.

CIC Secretariat would further consult the Chairperson of Com-CPT to identify a suitable candidate to assume the Chairperson role in leading the work of the Task Force.

CT supplemented that RMAA was one of the "five pillars" proposed by the CIC Chairman and it would be a topic of great importance.

LN suggested that DL would be a suitable candidate given his previous experience in RMAA works.

DL expressed that as the Urban Renewal Authority (URA) would

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be heavily involved with retrofitting work of a great number of aging buildings in the coming years, it could be explored if the URA would be willing to lead the Task Force.

**2.5 Update on Subcontractor Registration Scheme Operation (SRS)**

Members took note of Paper CIC/CPT/P/007/16 regarding the latest status of SRS operations. CWL reported that as at the end of May 2016, a total of 5,325 companies were registered under the SRS. This indicated a moderate increase of 83 Registered Subcontractors since the last report in February 2016. CWL further reported that a regulatory hearing was conducted by the Management Committee of the SRS on 13 June 2016. Two cases regarding late payment of wage, four cases regarding late payment of MPF contribution and two cases regarding fatal site accident were heard; three subcontractors received a written warning and five subcontractors were suspended from registration for three to six months.

Based on the *Report of the Commission of Inquiry into Excessive Lead Found in Drinking Water* recently released, the Management Committee of the SRS decided to initiate the regulatory action process against the three Registered Subcontractors involved in the incident and their cases would be heard at the next regulatory hearing scheduled for 19 July 2016.

**2.6 Any Other Business**

(a) Progress Update of the Task Force on NEC3 Collaborative Contract

SMH updated Members on the drafting progress of the Case Book (Volume 1) on the Fuk Man Road Nullah Project of Drainage Services Department (DSD). The first draft of the case book was being finalised with comments from Task Force Members. The draft would be submitted for Com-CPT endorsement and would be published in the third quarter of 2016.

The subject project of Volume 2 of the Case Book would be on a CLP maintenance contract. A consultant would be engaged for drafting and Volume 2 was targeted to be

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published before the end of 2016.

SMH informed Members that a technical seminar on partnering and collaborative contracts would be held on 22 September 2016. Members were invited to attend and the CIC Secretariat would provide further information.

(b) Progress Update of the Task Force on Standard Contracts Provisions for Domestic Subcontracts

MYP updated Members that the Simplified Version of the Standard Form of Domestic Subcontract would be circulated for Task Force Members review by the end of June 2016.

(c) Progress Update of the Special Group on On-Demand Bonds

KnH updated Members that the 2<sup>nd</sup> draft of the Standard Form of On-demand Bond with Conditions was under review by Members of the Special Group. The 2<sup>nd</sup> draft would be circulated to relevant industry stakeholders, including “Employers”, “Consultants and Professionals”, “Contractors and Sub-contractors” and “Finance and Insurance sector” for further comments.

(d) Progress Update of the Task Force on Enhancements to Subcontractor Registration Scheme

CWL reported that in light of the amendments to the research funding framework as discussed earlier, the proposal of the research on the SRS by a scholar from the University of Hong Kong was now under further review by R&D and would be handled in accordance with the latest revised framework.

(e) Revised Terms of Reference of the Committee on Construction Procurement

MYP briefed Members that the renaming of Standing Committees and the revised Terms of References were approved by the Council in the last Council Meeting on 17 June 2016. In particular, elements of new technology, innovative idea and research were incorporated in the Terms of References for all Standing Committees.

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(f) Discount for NEC Digital Contract

MYP briefed Members that a 10% discount was being offered by NEC UK to CIC contacts via the input of a code for the online purchase of NEC contracts.

(g) Briefing by ICAC on Corruption Issues in Construction Industry

JAY briefed Members on the complaints received regarding foremen or agents of subcontractors soliciting money from workers for job opportunities, and cases where head count of workers were inflated for payment valuation. She expressed that these practices would tarnish the reputation of the construction industry and could contravene the Prevention of Bribery Ordinance (POBO). Often the proprietors of the subcontracting companies would be unaware of these situations. Although the number of reported cases were relatively low, nonetheless there was a trend that indicated that the problem was deeply rooted in the construction industry. She appealed to Members that they should remain vigilant and report any suspected case for ICAC's further investigation.

LN enquired whether ICAC could, within the limits of confidentiality of their investigation, share more details of the reported cases.

JAY responded that she could not share the specifics of the cases. However, she informed Members that in some cases, pursuant to Section 9 of POBO, their investigation could not proceed when the proprietor indicated that the payment was authorised.

LKC expressed that some of the practices relating to inflated head count were considered normal industry practice as a payment arrangement for sundry work.

DN suggested that more transparency and standardisation in payment practices could alleviate concerns and would avoid innocent subcontractors inadvertently falling into legal traps. He quoted the steel fixing trade as a good example of

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transparency in their payment arrangement.

CYT agreed to the need for more transparency. He also suggested that the problem might appear to have worsened due to the recent boom in the construction market.

PHL remarked that without the details of the complaint case, it was difficult to identify the root cause of the problem and to come up with a suitable solution. He suggested that better communication between stakeholders in the future would be important.

After much deliberation, the Chairperson suggested the ICAC to issue a notice on their concerned issues for Members to disseminate to their respective organisations.

**2.7 Date of Next Meeting**

The next meeting would be scheduled for Monday, 12 September 2016 at 2:30pm at Meeting Room 1, Construction Industry Council Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong. **All to note**

There being no further business, the meeting adjourned at 4:00 p.m.

**CIC Secretariat**  
**June 2016**