

Construction Industry Council

Committee on Procurement and Subcontracting

Meeting No. 001/15 of the Committee on Procurement and Subcontracting (Com-PNS) was held on Thursday, 26 March 2015 at 2:30pm at Meeting Room No.1, CIC Headquarters, 15/F, Allied Kajima Building, 138 Gloucester Road, Wanchai, Hong Kong.

Summary Notes of the Com-PNS Meeting No. 001/15:

Agenda Item	Paper	Major Resolutions/ Progress Highlights
1.1	CIC/PNS/R/003/14 (for discussion)	Confirmation of the Progress Report Members confirmed the Progress Report of the previous meeting held on 15 December 2014.
1.2	CIC/PNS/R/003/14 (for discussion)	Matters Arising from the Previous Meeting <u>Item 3.6</u> – Members took note that a visit to the Competition Commission (“the Commission”) was held on 20 January 2015. <u>Item 3.9(e)</u> – Details were discussed under Agenda Item 1.6(d).
1.3	CIC/PNS/P/001/15 (for discussion)	Report of the Task Force on Competition Law <ul style="list-style-type: none">• Members took note of the latest progress of the Task Force on Competition Law. A consultant had been engaged to draft “Reference Materials on Competition Law for the Construction Industry”. Three draft documents, namely a “Competitive Conduct Standard or Code of Conduct on Competition Law” (Code of Conduct), “Frequently Asked Questions on Competition Law (FAQs)” and “Competition Law Case Analyses” (Case Analyses), had been prepared.• Members took note of and generally agreed with the comments raised by the Task Force on the three draft documents, including the suggestions (i) to add an explanatory note in the Case Analyses to state that cases used were from jurisdictions other than Hong Kong; (ii) to reduce the use of technical language in the FAQs and Code of Conduct and further review the examples to ensure compliance with the law and the Commission’s draft Guidelines; and (iii) to consult the relevant organisations and allow them 6 to 8 weeks to further consider the documents before finalisation of the three Reference Materials.

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		<ul style="list-style-type: none"> • Members expressed concerns that the Code of Conduct appeared to be setting a stricter standard than the requirement of the law and the Commission’s draft Guidelines. Some Members also reflected that the industry stakeholders in general would like to have more definite advice on whether certain behaviours would infringe the Competition Ordinance. After much deliberation, Members were generally in favour of classifying the Code of Conduct as Reference Materials and renaming the document. The consultant would further review and fine-tune the three draft documents taking into account the Com-PNS and Task Force’s comments.
1.4	CIC/PNS/P/002/15 (for information)	<p>Report of the Task Force on NEC3 Collaborative Contracts</p> <ul style="list-style-type: none"> • Members took note of the progress of the Task Force. Members were briefed that the “Reference Materials on Frequently Asked Questions on NEC Collaborative Contracts” would be further reviewed by the Task Force before submission to the Com-PNS and Council for approval to publish. In addition, a feedback form was incorporated into the FAQ document to collect feedback from industry stakeholders. • Members took note that a series of Case Books on NEC Projects in Hong Kong was proposed to be produced. • Members noted that the first NEC ECC Project Manager Accreditation Programme (Hong Kong) training class was held from 9 to 13 February 2015 at the ZCB. The class was taught by two experienced NEC practitioners from the UK and was attended by over 25 participants.
1.5	CIC/PNS/P/003/15 (for information) CIC/PNS/P/004/15 (for endorsement)	<p>Update on Subcontractor Registration Scheme (SRS) Operations</p> <ul style="list-style-type: none"> • Members took note of the latest update on SRS Operations. • Members endorsed the proposed membership of the Management Committee of the SRS for its new term of office from 16 July 2015 to 15 July 2018.
1.6	-	<p>Any Other Business</p> <p>(a) <u>Progress Update of the Task Force on Standard Contracts Provisions for Domestic Subcontracts</u> Members took note of the progress of the Task Force that the legal vetting of the latest draft Standard Form of Domestic Sub-Contract was in progress. The marked up version of the</p>

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		<p>Standard Form was circulated to Task Force Members for consideration in mid March 2015.</p> <p>(b) <u>Progress Update of the Working Group on the Review of the Implementation of the Dispute Resolution Mechanism</u></p> <p>Members took note of the progress of the Working Group that comments were received from the Housing Authority on Reference Materials for Application of Dispute Resolution in Construction Contracts. No further comments were received from the Working Group.</p> <p>On HKCAC’s proposed alternative model, Members noted that HKCAC’s request was to include them as one of the appointing authority on par with HKIAC and the 3 professional institutions. Liaison with the professional institutions was in progress.</p> <p>(c) <u>Progress Update of the Task Force on Enhancements to Subcontractor Registration Scheme –</u> Members took note of the progress of the Task Force. The proposed mandatory registration scheme would be further discussed at the next meeting of the Task Force. A consultant might be engaged to consider the issue in detail.</p> <p>(d) <u>Progress Update of the Special Group on On-Demand Bonds</u> – Members took note of the progress of the Special Group. The Special Group Chairman suggested to revise the budget for the production of the “Standard Form of On-Demand Bond with Conditions”.</p> <p>(e) <u>Progress Update of the Task Force on the Selection of Consultants and Contractors</u> – Members took note of the progress of the Task Force that a half day seminar/briefing session was proposed to be held in August or November 2015. Other Task Forces/Special Groups would be invited to co-organise the above seminar/briefing session.</p> <p>(f) <u>Progress Update of the Task Force on Employer-Procured Insurance Policies in Construction Contracts</u> – Members took note of the progress of the Task Force to consider co-organising the seminar/briefing session as set out in 1.6 (e) above.</p> <p>(g) <u>Development of Appropriate Procurement and Subcontracting Processes</u> – The Chairman invited members to provide comments or ideas to enhance the processes of the industry.</p>

Remarks: The mentioned papers discussed at the Committee on Procurement and Subcontracting and the full progress report can be made available to Council Members from the CIC Secretariat upon request.