

**Construction Industry Council**

**Committee on Procurement and Subcontracting**

Meeting No. 002/14 of the Committee on Procurement and Subcontracting (Com-PNS) was held on Friday, 17 October 2014 at 10:00am 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. 002/14:

<b>Agenda Item</b>	<b>Paper</b>	<b>Major Resolutions/ Progress Highlights</b>
2.1	CIC/PNS/R/001/14 (for discussion)	<b>Confirmation of the Progress Report</b> Members confirmed the Progress Report of the previous meeting held on Friday, 23 May 2014.
2.2	CIC/PNS/R/001/14 (for discussion)	<b>Matters Arising from the Previous Meeting</b> <u>Item 1.4</u> – The proposed list of Co-opted Members was approved by the Council. <u>Item 1.5</u> – Task Force Chairmen’s proposed updates to the “Tasks and Budget for 2014” were noted and accepted by the Com-PNS. <u>Item 1.6</u> – Details were discussed under Agenda Items 2.6 and 2.10(c). <u>Item 1.8</u> – Details were discussed under Agenda Item 2.5. <u>Item 1.11</u> – The existing CIC structure did not provide for the position of a Vice Chairman.
2.3	CIC/PNS/P/011/14 (for endorsement)  CIC/PNS/P/012/14 (for endorsement)	<b>Report of the Task Force on NEC3 Collaborative Contracts</b> <ul style="list-style-type: none"><li>• Members suggested the 2<sup>nd</sup> paragraph of the proposed “Memorandum of Understanding (MoU) for Collaboration between the CIC and the NEC UK” be amended as follows: <i>“Its purpose is to collaborate together to raise awareness of the construction community to the increasing adoption of collaborative type contracts <u>of which NEC is one of them.</u> The collaboration, <u>for those who opt to use NEC contracts,</u> will aim to support NEC products and support services in the order of priority:.....”</i></li></ul> With this amendment, the Com-PNS endorsed the proposed MoU by a majority vote. The MoU would be reviewed annually and a register of all the comments/objections received would be kept.

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		<ul style="list-style-type: none"> <li>• The Com-PNS endorsed the “Draft Reference Materials on Frequently Asked Questions (FAQ) on NEC3 Collaborative Contracts” be submitted for translation and legal vetting before submitting to the Council for approval. The Chairman suggested a mechanism be developed to collect feedback from industry stakeholders for incorporation in future revision(s).</li> </ul>
2.4	CIC/PNS/P/013/14 (for endorsement)	<p><b>Report of the Task Force on Competition Law</b></p> <p>Members took note of the latest progress of the Task Force on Competition Law and endorsed the proposed Work Plan of the Task Force for 2014/2015.</p>
2.5	CIC/PNS/P/014/14 (for information)	<p><b>Report of the Task Force on Employer-Procured Insurance Policies in Construction Contracts</b></p> <p>Members took note that the “Procurement Fact Sheet No. 001/14 – Owner-Controlled Insurance Programme in Construction Contracts” had been published on the CIC website.</p>
2.6	CIC/PNS/P/015/14 (for endorsement)	<p><b>Report of the Special Group on On-Demand Bonds</b></p> <ul style="list-style-type: none"> <li>• Members took note that the “Procurement Alert No. 001/14 – Use of On-Demand Performance Bonds in Construction Contracts” had been published on the CIC website.</li> <li>• The Com-PNS endorsed the proposed revised Terms of Reference of the Special Group.</li> </ul>
2.7	CIC/PNS/P/016/14 (for endorsement)	<p><b>Report of the Task Force on the Selection of Consultants and Contractors</b></p> <p>Members endorsed the “Reference Materials on the Selection of Consultants” to be submitted to the Council for approval before publication. The Chairman suggested a briefing session be held to introduce the publication and a mechanism be developed to collect feedback from industry stakeholders for incorporation in future revision(s).</p>
2.8	CIC/PNS/P/017/14 (for discussion)	<p><b>Report of the Task Force on Enhancements to Subcontractor Registration Scheme (SRS)</b></p> <p>Members took note of the two key recommendations made by the Task Force on Enhancements to SRS at its Meeting No. 002/14 held on 28 August 2014, namely:</p> <ul style="list-style-type: none"> <li>(i) not to proceed with the proposed categorisation of Registered Subcontractors under the SRS; and</li> <li>(ii) not to continue with the study on mandatory implementation of the SRS.</li> </ul>

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2.9	CIC/PNS/P/018/14 (for information)	<b>Update on Subcontractor Registration Scheme Operations</b> Members took note of the report on SRS operations and endorsed the proposed changes in membership of the Management Committee of Subcontractor Registration Scheme.
2.10	-	<b>Any Other Business</b> (a) <u>Progress Update of the Task Force on Standard Contracts Provisions for Domestic Subcontracts</u> <ul style="list-style-type: none"><li>• The Task Force had reached consensus at its Meeting No. 002/14 held on 14 October 2014 on the final amendments to be made to the draft Standard Form of Domestic Subcontracts. The document would be further revised before submission to the Com-PNS.</li><li>• A letter was received from the Hong Kong Construction Association (HKCA) on 15 October 2014 stating that HKCA no longer support the Standard Form of Domestic Subcontracts. The Chairman suggested the Task Force Chairman to find out the reasons for HKCA's non-support and hold a meeting with the Task Force and HKCA to find ways to resolve the matter.</li></ul> (b) <u>Progress Update of the Working Group on the Review of the Implementation of the Dispute Resolution Mechanism</u> – Members took note that a letter was received from the Hong Kong Construction Arbitration Centre (HKCAC) in September 2014, proposing an alternative model to the one stipulated in CIC's Reference Materials for Application of Dispute Resolution in Construction Contracts. The matter would be discussed at the upcoming Task Force meeting. (c) <u>Issues on Allocation/Sharing of Risks in Construction Contracts</u> – Members were briefed on the background to the “Issues on Allocation/Sharing of Risks” (previously known as “Issues on Unfair Contract Terms”) and CIC's proposed course of action. A representative from HKCA expressed that he was unsatisfied with the proposed course of action. The Com-PNS Chairman would hold a separate meeting with HKCA's representative(s) to discuss the matter.

*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.*