

Construction Industry Council

Committee on Construction Procurement

Meeting No. 003/17 of the Committee on Construction Procurement was held on Thursday, 14 September 2017 at 2:30pm at the Boardroom, CIC Headquarters, 38/F, COS Centre, 58 Tsun Yip Street, Kwun Tong, Kowloon.

Present	:	Stephen LAI	(SLI)	Chairman
		CHAN Chi-chiu	(CCC)	
		Robert LAM	(PHL)	
		Eliza WONG	(EWYL)	
		Wilfred WU	(WSCW)	
		Derrick PANG	(DP)	
		MW WONG	(WMW)	for Permanent Secretary for Transport and Housing (Housing) <i>(for Ada FUNG)</i>
		Thomas Kwok-kwan HO	(KnH)	Chairperson of Special Group on On- Demand Bonds
		Dick KWOK	(DkK)	Chairperson of Task Force on RMAA Procurement
		Francis LEUNG	(FLG)	Development Bureau
		HO Wai-chi	(WCH)	Independent Commission Against Corruption
		YUEN Hung-wai	(HWY)	Hong Kong General Building Contractors Association
		Gary SOO	(GS)	Hong Kong International Arbitration Centre
In Attendance	:	Albert Ting-ning CHENG	(CTN)	Executive Director
		LEE Oi-yen	(OYL)	Assistant Director - Registration Services
		LAI Chi-wai	(CWL)	Senior Manager - Registration Services
		Rocky CHO	(RYC)	Manager - Council Services
		Gary LEUNG	(GL)	Manager - Council Services
Apologies	:	Ada FUNG	(AF)	For Permanent Secretary for Transport and Housing (Housing)
		Paul CHONG	(PC)	
		Lawrence NG	(LN)	

Kevin POOLE	(KP)	
HO Sing-mo	(SMH)	Chairperson of Task Force on NEC3 Collaborative Contracts
TSE Chun-yuen	(CYT)	Chairperson of Task Force on Enhancements to Subcontractor Registration Scheme
CHOW Luen-kiu	(LKC)	Hong Kong Construction Industry Employees General Union
WONG Sing-lam	(SLW)	Contractor's Authorised Signatory Association
KU Chi-ming	(CMK)	Construction Site Workers General Union
Danny HUNG	(CSH)	Hong Kong Construction Association
Miranda YEAP	(MYP)	Senior Manager - Council Services

PROGRESS REPORT

3.1 Confirmation of the Progress Report of Meeting No. 002/17 of the Committee on Construction Procurement

Members took note of the Paper CIC/CPT/R/002/17 and confirmed the Progress Report of Meeting No. 002/17 of the Com-CPT held on Wednesday, 14 June 2017.

3.2 Matters Arising from the Previous Meeting of the Committee on Construction Procurement

(a) Item 2.3 – 2018 Work Plan and Budget

Members raised no further comment on the 2018 Work Plan and Budget of Com-CPT. Regarding the discussion on Report on Breakfast Roundtable, details would be discussed under agenda item 3.4.

(b) Item 2.4 – Consultancy Report – A Study of the Risk Sharing Pattern in the Construction Projects in Hong Kong

As CSH was not able to attend the meeting, detailed discussion on the Consultancy Report would be made in the next meeting. However, Members had a brief discussion and shared their views on the report in the meeting which would be detailed under agenda item 3.4.

(c) Item 2.6 (c) – Briefing on Automatic Opt-in of Schedule 2 of the Arbitration Ordinance for Domestic Arbitration

FLG briefed Members on the expiring of automatic opt-in of Schedule 2 provisions under the Arbitration Ordinance (Cap 609) which applies to contracts entered into on or after 1 June 2017. If the contracting parties intended to have applied some or all of the Schedule 2 provisions, they had to express such explicitly in the arbitration agreement.

FLG pointed out that the opt-in Schedule 2 provisions was included in the new arbitration ordinance that came into effect back in 2011. It was intended as a transitional arrangement for parties to familiarise with the international arbitration regime based on UNCITRAL Model Law. GS supplemented that the change would impact the contract arrangement and dispute resolution, especially subcontractors when costs are concerned.

Members agreed that such change should be promulgated in the industry.

PHL suggested that the CIC should establish its position whether to recommend domestic arbitration as per Schedule 2 or international arbitration. EWYL further suggested that the features and benefits of each regime should be highlighted for stakeholders' reference.

FLG would provide further information on the topic including users' experience, with and without Schedule 2 provisions in arbitration agreement in civil works for discussing CIC's position at the next meeting.

3.3 Progress Update on the Research titled “A Roadmap to Enhance the Subcontractor Management Mechanism in Hong Kong”

CWL briefed Members on the background information of the research conducted by The University of Hong Kong. On 14 July 2017, the research team met CTN and key industry stakeholders, including Development Bureau, The Hong Kong Construction Association Limited, The Hong Kong Federation of Electrical and Mechanical Contractors Limited, Hong Kong Construction Sub-Contractors Associations, and the chairman of the Task force on Enhancements to Subcontractor Registration Scheme (SRS), to share views on the existing and directions of future development for the SRS. The research team later discussed in details on the objectives and scope of the research with the Task force on Enhancements to SRS on 31 August 2017. Prof. Thomas NG, who led the research, presented the key points of the submitted inception report to Members in the meeting whose comment on the direction and scope of the research was sought.

Prof. Thomas NG indicated that the aim of the research was to develop a roadmap to enhance the subcontractor management mechanism applicable to the construction industry in Hong Kong by reviewing the current subcontractor registration system in the industry, exploring the potential problems that might arise from implementing mandatory registration and making reference to the best practices in subcontractor management in three overseas countries including Singapore, United States and United Kingdom.

DP enquired if specific area of consideration on subcontractor performance such as safety, quality and efficiency would be defined

in the study and whether the impacts of subcontractor registration on the industry in terms of cost, time and choices on subcontractors would be studied. He suggested that narrowing down the scope of the study, such as how the registration scheme would help improve safety and quality of the industry might give a more concrete conclusion on the research.

Prof. Thomas NG replied that improving safety, environment and security of payment were the key concerns based on the research team's understanding. The research would also look into whether the mandatory registration would adversely impact the industry. GS suggested examining the benefits of mandatory scheme so as to encourage the industry to adopt it.

CTN commented that the aims of the study should focus on whether the mandatory subcontractor registration scheme could help enhance the sustainability of the industry by examining if it was conducive to managing subcontractors effectively and was beneficial to the industry in terms of safety, quality and construction period. CTN suggested that the feasibility of categorising subcontractors into different grades based on some agreed criteria such as their competence and scale could also be studied.

EWYL recalled that whether a mandatory system was required for the industry was discussed in the meeting of Com-CPT in December 2016 but no compromise was reached. She suggested that such topic could be studied first and the subsequent roadmap could be worked out later on.

Taking the wide disciplines covered by the subcontracting industry into consideration, PHL and CCC deemed the mandatory registration might not be applicable to all subcontractors. In view of this, PHL and CCC proposed that applying the mandatory registration to certain disciplines of subcontractors could be considered for improving the safety of the industry. And the registration scheme could be operated on a tier system by which affects to the businesses of subcontractors regardless of their scale would be minimised.

SLI concluded that Prof. Thomas NG could take the above mentioned comments from Members into consideration for the research. Prof. Thomas NG suggested organising a meeting inviting relevant parties including members from Com-CPT to further discuss and to seek consensus on the direction and key concerns of the research.

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[Post-meeting Note: A Focus Group Meeting inviting the Chairman and Executive Director of the CIC, Members from Com-CPT, Management Committee of the Subcontractor Registration Scheme (SRS) and Task Force on Enhancements to SRS to attend for further discussion on the research was scheduled for 9 November 2017.]

3.4 Discussion on the Report on Breakfast Roundtable and HKCA's Consultancy Report – A Study of the Risk Sharing Pattern in the Construction Projects in Hong Kong

RYC briefed Members on the issues discussed during the Breakfast Roundtable held in June 2017. Members deliberated on the issues detailed in the Report.

HWY commented that the scope of civil projects was either too big or too small which placed SMEs in a disadvantageous position when bidding for these projects. Suggestions on splitting the mega projects or combining several mini projects for tendering were made repeatedly in the past but no progress was observed.

FLG responded that the Development Bureau had advised government departments to split some mega projects into smaller packages but the works departments had to maintain balance for overall efficiency in project management. In any event, the Development Bureau would focus on promoting the development of SMEs in the coming year.

DP agreed that there is room for the government to do more for local contractors. Most tender requirements to certain extent were more favourable to overseas contractors and in turn, local contractors had limited chance to advance further. DP also commented that the tendering system did not encourage larger contractors to have joint venture with smaller contractors.

FLG responded that the requirement of joint venture being led by local contractors was relaxed since last year which encouraged local contractors to partner with non-local contractors and to accumulate job references.

CTN remarked that a consultancy study on Improving Time, Cost and Quality Performance of the Hong Kong Construction Industry was commissioned by the CIC. In particular, the high cost of compliance with administrative procedures and regulations would be examined. Members were invited to provide suggestions on the

study direction.

In response to EWYL's suggestion, CTN replied that the CIC had issued a press release on the implication of recent filibustering.

KnH commented that the participants of the Breakfast Roundtable only represented part of the industry. If more comprehensive opinion were to be collected, other stakeholders such as representatives from trade associations had to be invited. SLI and CTN replied that representatives from different sectors would be invited progressively in the coming breakfast meetings which would be organised on an on-going basis.

In CSH's absence, DP was requested to liaise with HKCA to identify the top priority issues from the consultancy report for further deliberation of follow up actions by the Com-CPT.

3.5 Update on Subcontractor Registration Scheme (SRS)

Members took note of Paper CIC/CPT/P/009/17 on the latest status of SRS operations. CWL reported that as of August 2017, there were 5,653 companies registered under the SRS. This indicated a steady increase of around 90 Registered Subcontractors compared with the last report in June 2017. CWL also reported that the Management Committee would hold its 4th regulatory hearing of 2017 on 28 September 2017.

3.6 Any Other Business

(a) Progress Update of the Task Force on Selection of Contractors

PHL reported that the Task Force had conducted a number of meetings during which a consensus on the framework of the project was reached. Samson Wong & Associates Property Consultancy Limited would then proceed to work on the report accordingly. The final draft of the reference materials would be completed around the end of 2017.

(b) Progress Update of the Task Force on RMAA Procurement

DkK reported that the Task Force on RMAA Procurement with 15 Members including himself as the Chairperson was formed. The first meeting was held on 7 August 2017. During the meeting, Mr. Daniel HO, representative of URA and a Member of the Task Force briefed Members on the URA's Building

Rehabilitation Platform. It was envisaged that URA's platform might have some overlapping areas with CIC's works including cost reference data, e-procurement platform and standard contracts. In addition to residential buildings, other type of buildings such as offices, commercial and luxury residential buildings were also targeted by URA.

KnH commented that the platform provided by URA could only serve limited function. He suggested that CIC could make recommendations to the government on policies in connection with RMAA works.

Members of the Task Force agreed that CIC could focus its initiatives on construction industry stakeholders including contractors and could differentiate its works from URA. DkK supplemented that there was no intention to compete with URA. The next meeting of the Task Force would be held on 16 October 2017 during which research topics, possible areas where URA and CIC could collaborate and other works CIC could do would be discussed.

(c) Technical Seminar – Rising Construction Cost

RYC reported that the seminar was conducted on 15 August 2017 where speakers shared their views on the topic. Ir John KWONG from Project Cost Management Office shared with participants on government initiatives in strengthening cost management, Ir PAN Shu-jie from China State Construction Engineering (HK) Ltd. on the adoption of advanced technology in enhancing productivity, Sr YU Hon-kong from RLB Ltd. and Mr. Francis AU from ARCADIS on the trends of rising construction cost locally and internationally. SLI supplemented that response from participants on the seminar was positive.

(d) Other A.O.B.

CTN requested the Secretariat to provide an update on the NEC training CIC is providing for the coming year at the next meeting.

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CTN also requested the Secretariat to report the Business Plan of Com-CPT, particularly what to be achieved in 2018 at the next meeting and Members were invited to suggest new topics

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for 2018.

In response to KnH's enquiry, the Secretariat would update Members on the status of research initiatives under CIC's research fund at the next meeting. **CIC Secretariat**

CTN expressed that the CIC would look into enhancing collaboration with private sector construction clients and developers. In this connection, he would welcome an opportunity to present CIC's initiatives to REDA and requested EWYL to set up a meeting at the earliest convenience.

3.7 Date of Next Meeting

The next meeting would be scheduled for Thursday, 14 December 2017 at 2:30pm at the Boardroom, CIC Headquarters, 38/F COS Centre, 56 Tsun Yip Street, Kwun Tong, Kowloon. **All to note**

There being no further business, the meeting adjourned at 4:35 p.m.

CIC Secretariat
October 2017