

Construction Industry Council

Committee on Construction Procurement

Meeting No. 002/17 of the Committee on Construction Procurement was held on Wednesday, 14 June 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)
Paul CHONG (PC)
Eliza WONG (EWYL)
MW WONG (WMW) for Permanent Secretary for
Transport and Housing (Housing)
(for Ada FUNG)
Dick KWOK (DkK) Chairperson of Task Force on
RMAA Procurement
Andy LOK (AyL) Development Bureau
(for Francis LEUNG)
CHEUNG Chin-kit (CKC) Independent Commission Against
Corruption
(for HO Wai-chi)
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
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
	Miranda YEAP	(MYP)	Senior Manager - Council 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)
	Lawrence NG	(LN)	
	Derrick PANG	(DP)	
	Robert LAM	(PHL)	
	Kevin POOLE	(KP)	
	Wilfred WU	(WSCW)	
	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
	Francis LEUNG	(FLG)	Development Bureau
	HO Wai-chi	(WCH)	Independent Commission Against Corruption
	CHOW Luen-kiu	(LKC)	Hong Kong Construction Industry Employees General Union
	LEE Oi-yen	(OYL)	Assistant Director - Registration Services

PROGRESS REPORT

Action

- (a) The Chairperson and Members welcomed the following attendees:
- (i) new Member, Mr. MW WONG attending the meeting on behalf of Ms. Ada FUNG;
 - (ii) new Co-opted Member, Sr. Dick KWOK, joining the meeting in the capacity of Chairperson of the Taskforce on RMAA Procurement; and

Action

- (iii) Executive Director of CIC, Ir. Albert CHENG, joining the meeting for the first time.

- (b) The Chairperson and Members thanked Mr. TANG Ki-cheung, the Chairperson of the Task Force on Standard Contract Provisions for Domestic Subcontracts and Members of the Task Force for their contributions in completing the tasks including the publication of Reference Materials for Standard Forms of Domestic Sub-contract and the simplified version. The Task Force had been disbanded henceforth and Mr. TANG Ki-cheung would no longer be required to attend the meeting of Com-CPT.

Action

2.1 Confirmation of the Progress Report of Meeting No. 001/17 of the Committee on Construction Procurement

Members took note of the Paper CIC/CPT/R/001/17 and confirmed the Progress Report of Meeting No. 001/17 of the Com-CPT held on Thursday, 23 March 2017.

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

Item 1.3 – A Study of the Risk Sharing Pattern in the Construction Projects in Hong Kong

HKCA commissioned a study on the topic and CSH gave a brief presentation on the consultancy report. Details were spelt out under agenda item 2.4.

2.3 2018 Work Plan and Budget

Members took note of Paper CIC/CPT/P/005/17 on the 2018 Work Plan and Budget. MYP highlighted that the 2017 Work Plan and Budget of Com-CPT endorsed by the Com-CPT on 23 March 2017 and approved in the Council Meeting on 28 April 2017 respectively spanned across 2017 and 2018 and would be reflected in the CIC's overall budget of 2018. New initiatives arising in the coming months, if any could still be added into the work plan and reflected in the revised budget of 2018.

MYP also revealed that a Breakfast Roundtable chaired by Chairman with the presence of industry stakeholders including contractors and consultants was held on 8 June 2017, during which matters related to the current business environment and the aspirations of industry stakeholders were discussed. Supplemented by CTN, participants pointed out that the excessive and ever-changing regulatory measures adopted by the government had dampened the business environment. The Secretariat would prepare a paper on the matters raised at the Breakfast Roundtable.

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PC expressed that in respect of construction procurement issues, the interests and needs of SMEs as well as big corporations in the construction industry had to be well balanced.

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

CSH presented the consultancy report in the meeting. CSH emphasized that this presentation pointed out that misallocation of risks and unfair terms in construction projects imposed on main contractors in Hong Kong led directly to the poor performance of construction projects. He suggested CIC to conduct research on the subject to examine what could be done to improve the situation. Members asked for the detailed report of the study and CSH would share it with Members via the Secretariat.

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Both SLI and CCC responded that some of the issues mentioned in the report had been addressed and alleviated by the work of CIC, such as the promotion of NEC collaborative contracts and the Reference Materials on Selection of Contractors to be completed later this year. MYP added that CIC would deliver the latest information including impending legislation to industry stakeholders through technical seminars such as Technical Seminar on Competition Law for the Construction Industry. PC mentioned that after the enforcement of Security of Payment Legislation (SOPL) for the Construction Industry, some of the issues could also be relieved. He commented that the issues listed on the consultancy report actually existed in the industry for long and suggested that CIC should reprimand unhealthy practices in the industry.

EWYL raised that it was worthy to study whether the unfair risk sharing pattern had led to high construction cost. She also suggested to identify and prioritise those major concerns that might have significant impact on the industry and draw up a timeline to have them tackled.

SLI mentioned that CIC would organise a Technical Seminar on Rising Construction Cost on 15 August 2017 with speakers from the government and private contractors. Promotion of the seminar will be rolled out in July 2017.

SLI concluded that Members could further study the consultancy report after the meeting and then prioritise relevant issues for discussion at the next meeting. MYP proposed that a paper summarising the discussion at Breakfast Roundtable would be circulated once ready and Members could go through and discuss the issues altogether in the next meeting of Com-CPT.

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2.5 Update on Subcontractor Registration Scheme (SRS)

Members took note of Paper CIC/CPT/P/006/17 on the latest status of SRS operations. CWL reported that as of May 2017, there were 5,565 companies registered under the SRS. This indicated a moderate increase of around 80 Registered Subcontractors compared with the last report in March 2017.

CWL also reported that the Management Committee of the SRS handled 5 cases in its 3rd regulatory hearing of 2017 on 16 May 2017. One case was related to arrears in making MPF contributions, four were about fatal site accidents but one of which had to be adjourned due to appeal to court filed by the subject subcontractor. In addition, in order to avoid potential conflict of interest of one of its members in the Appeal Panel of the SRS, according to the Rules & Procedures of the SRS, second hearing of the Appeal Panel of this year to be conducted on 10 July 2017 would follow after the appointment of a new member by the Chairman of the CIC.

2.6 Any Other Business

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

RYC reported that the consultant “Samson Wong & Associates Property Consultancy Limited” (“the Consultant”) engaged through the standard CIC procurement procedure had been working with the Task Force on the reference materials. With an aim to provide good practices on selection of contractor and procurement of construction works in general, the Consultant would focus on the following three major areas for the reference materials:

- (i) tender preparation;
- (ii) selection criteria/process and;
- (iii) contractual considerations.

The reference materials were expected to be completed by the end of this year for publication early next year.

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

SLI reported that a Task Force on RMAA Procurement was being formed. CTN told Members that an informal meeting with URA was held to have a brief discussion on the proposed works related to RMAA between URA and CIC. MYP briefed Members on the areas where duplications might occur. Standard Contracts, Cost Reference Data and Electronic Procurement Platform were the possible overlapping areas. CTN supplemented that both CIC and URA agreed work duplications should be avoided but no clear boundary was drawn during the discussion with URA. In any event, the direction and scope of works of CIC would be subject to the discussion of the Members of the Task Force.

DkK pointed out that unlike URA who would have its limitations on service scope and targets which were mainly residential buildings, CIC's service targets would be the whole construction industry and all types of buildings in Hong Kong. CIC might co-operate with URA on the overlapping areas. Research would also be conducted as and when necessary. The Task Force would discuss the direction and works in its first meeting to be held in around July/August 2017.

SLW supplemented that URA was inviting representatives from the industry to join its 3 task forces. He added that the provision of incentives to owners of buildings by URA might put CIC in a less favorable condition in asking stakeholders to follow CIC's suggestions. CSH suggested the Task Force to define the scope of works in detail.

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

AyL indicated that parties entering into an agreement on or after 1 June 2017 could no longer rely on Section 100 of Hong Kong's Arbitration Ordinance allowing for automatically opt-in to Schedule 2 to enjoy the benefit of the provisions by providing for "domestic arbitration" in their arbitration agreements. Parties wishing to apply specific provisions of Schedule 2 must now expressly opt in pursuant to the relevant section of the Arbitration Ordinance. AyL would provide more information in the next meeting.

AyL

(d) Other A.O.B.

CTN asked Members to help promote the CIC Construction Innovation Award 2017 via their network and Members could approach the Secretariat if more application forms are needed. Deadline for submission is 15 August 2017.

2.7 Date of Next Meeting

The next meeting would be scheduled for Thursday, 14 September 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 4:15 p.m.

CIC Secretariat
July 2017