

Construction Industry Council

Committee on Construction Procurement

Meeting No. 004/16 of the Committee on Construction Procurement was held on Thursday, 1 December 2016 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)
Robert LAM (PHL)
Lawrence NG (LN)
Eliza WONG (EWYL)
Stephen CW KWOK (CWK) for Permanent Secretary for
Transport and Housing (Housing)
(for *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
TANG Ki-cheung (KCT) Chairperson of Task Force on
Standard Contract Provisions for
Domestic Subcontracts
TSE Chun-yuen (CYT) Chairperson of Task Force on
Enhancements to Subcontractor
Registration Scheme
Joseph LEE (JoL) Independent Commission Against
Corruption
Edwin WONG Development Bureau
(for *Francis LEUNG*)
KU Chi-ming (CMK) Construction Site Workers General
Union
Danny HUNG (CSH) Hong Kong Construction
Association
WONG Sing-lam (SLW) Contractor's Authorised Signatory
Association
YUEN Hung-wai (HWY) Hong Kong General Building
Contractors Association

In Attendance :	CHEUNG Hau-wai	(HWC)	Executive Director
	LEE Oi-yen	(OYL)	Assistant Director - Registration Services
	Miranda YEAP	(MYP)	Senior Manager - Council Services
	LAI Chi-wai	(CWL)	Senior Manager - Registration Services
	Alan TANG	(AnTg)	Government Seconded - Research and Development
	James WONG	(JaW)	Manager - Research & Development
	Rocky CHO	(RYC)	Manager - Council Services
	Daniel CHAN		The Hong Kong Polytechnic University
	Albert CHAN		The Hong Kong Polytechnic University
	Patrick LAM		The Hong Kong Polytechnic University
	Sam CHAN		The University of Hong Kong
	Kelwin WONG		The University of Hong Kong
	Lipmann SZE		Hong Kong Institute of Steel Construction
	Maria LAU		Buildings Department
	Mckey HO		Housing Department
Apologies :	Ada FUNG	(AF)	For Permanent Secretary for Transport and Housing (Housing)
	Kevin POOLE	(KP)	
	Wilfred WU	(WSCW)	
	Francis LEUNG	(FLG)	Development Bureau
	CHOW Luen-kiu	(LKC)	Hong Kong Construction Industry Employees General Union
	Daniel LAM	(DLL)	Hong Kong International Arbitration Centre

PROGRESS REPORT

Action

The Chairperson and Members welcomed new Co-opted Member, Mr. Joseph LEE, representative of the Independent Commission Against Corruption, replacing Ms. Jennie AU YEUNG who had recently retired.

Action

4.1 Confirmation of the Progress Report of Meeting No. 003/16 of the Committee on Construction Procurement

Members took note of the Paper CIC/CPT/R/003/16 and confirmed the Progress Report of Meeting No. 003/16 of the Com-CPT held on Monday, 12 September 2016.

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

(a) Item 3.3 - Amended Operation Framework of CIC Research Fund and Proposal of Research Agenda

MYP reported that after the last meeting, Members were invited to provide suggestions on potential research areas for invitation of research proposals. Suggestions received from Members had been passed to the Task Force on Research for their further consideration. Invitations would be sent to research institutes in December 2016.

(b) Item 3.6 - Reference Materials - NEC Case Book: Improvement of Fuk Man Road Nullah in Sai Kung

MYP reported that at the last meeting, Members suggested that a foreword should be included with the Case Book. A foreword was drafted by the Secretariat and was accepted by the Task Force Chairperson on 29 September 2016.

The Case Book with the foreword included was subsequently approved by the CIC Council on 28 October 2016 and was published on the CIC website.

(c) Item 3.7 - Reference Materials - Standard Form of On-demand Performance Bond with Conditions

MYP reported that at the last meeting, Members requested that an introductory note should be included with the Standard Form of On-demand Performance Bond with Conditions to address Members' concerns on its publication.

An introductory note had been prepared accordingly and would be discussed in detail under agenda item 4.6.

Action

4.3 Presentation of the Research titled “An Empirical Study of Construction Time Performance of High-rise Private Building Projects in Hong Kong”

[Dr Daniel CHAN, Prof Albert CHAN and Dr Patrick LAM joined the meeting at this juncture.]

Dr Daniel CHAN, Prof Albert CHAN and Dr Patrick LAM of The Hong Kong Polytechnic University gave a presentation on the findings of their research titled “An Empirical Study of Construction Time Performance of High-rise Private Building Projects in Hong Kong”. The aims of the research project were:-

- to establish the factors affecting construction time;
- to propose a statistical model for construction time based on the established factors;
- to establish a benchmark on construction time for reference by the construction industry; and
- to suggest ways to improve the productivity and time performance of construction projects.

[LN and DH joined the meeting at this juncture.]

PHL commented that industry players generally had a pretty good idea of the construction time at the superstructure construction stage. There was however uncertainty with basement / underground construction which were becoming more prevalent in Hong Kong. Statutory inspections might also cause unpredictable delays to project completion. The practical applicability of the present research on the construction time of superstructure might be limited. He further questioned if comparisons had been made with public works project in terms of the construction time performance in the research study.

Dr Daniel CHAN explained that previous studies of similar nature were conducted on public housing projects. It was established that as the design and scope of public housing projects were more standardised than those of private developments, there were less variation in construction time performance. It was one of the main purposes of this research project to study the factors causing the fluctuation in construction time of private projects; there were very few studies of such nature done on private construction projects. It was hoped that the research would establish a baseline model

Action

which could be further refined and enhanced in the future.

The Chairman suggested and Dr Daniel CHAN agreed that as there were increasing number of government office buildings with non-standard design, it might be worthwhile to compare the construction time performance of those projects with the private sector.

CWK supplemented that while public housing continued to adopt modular flat layouts, the design of the building blocks would be tailored for individual sites. He also noted that the Housing Department has adopted pre-fabrication extensively to speed up its construction projects.

DH enquired about the level of involvement from main contractors and different developers on the study. He also questioned if the proposed model was tested against real life projects, especially those with a lot of variations or design changes during the course of the project.

Dr Daniel CHAN responded that the majority of data were collected anonymously from QS consultants whom the researcher believed was a reliable source. Regarding the testing of the proposed model, the model was tested against five real life projects and yielded an average variance of 8.3% which was considered acceptable. As for projects with a lot of design changes, the study revealed that there were indeed a larger variance in the construction time but it was beyond the scope of the study to examine the factors contributing to such large variance.

DH supplemented that the study might not represent a full picture of the construction market as projects in the private sector tended to extend beyond the original completion date.

LN commented that due to the time lapse between data collection and analysis, there might be some recently emerged factors, such as labour shortage, which had not been considered in the study but would significantly affect the construction time of projects. LN suggested such limitations should be stated in the final report.

[As SMH was required to attend to another commitment, SMH reported the progress of the Task Force on NEC3 Collaborative

Action

Contracts at this juncture to enable early departure. Detail of his verbal report may be found under agenda item 4.9(d).]

[SMH left the meeting at this juncture.]

KCT commented that he had hoped for the research outcome to provide an objective benchmark in construction time for reference by the industry. He however felt that the use of original contract period as the basis of the prediction model would limit its use in real life projects. He also opined that by adopting construction floor area instead of contract sum as a factor would eliminate variance caused by inflation and other macroeconomic effects.

Dr Patrick LAM responded that the use of original contract period provided an objective baseline for the intended construction works to be carried out at the outset of a project. When there were subsequent design changes which might or might not result in delays, such would lead to a new set of works which should be considered separately. If the total contract period including all delays was considered, it would be difficult to attribute the delays between the client and the contractor without conducting in-depth delay analysis for each project. Regarding the use of construction floor area as a factor, he responded that the use of construction floor area was attempted but yielded unsatisfactory correlation results.

LN expressed that he agreed with the views of other Members and supplemented that the research should focus on establishing the facts on actual construction time before looking into the contributing factors and ways to improve upon the situation.

DH commented that as the research still contained many issues which the Com-CPT had no consensus, he suggested that the final report of the research findings should not be published publicly at this stage.

The Chairperson stated that this research report was not seeking Members' endorsement for its publication. It was merely presented to Members' for their reference and information.

Mr Edwin Wong commented that curtain wall system was being increasingly adopted in residential developments; the difference in construction time where such was adopted could be significant and

Action

would be worthy of further investigation along with other site constraint factors.

[Dr Daniel CHAN, Prof Albert CHAN and Dr Patrick LAM left the meeting at this juncture.]

HWC highlighted the way forward for researches conducted by the CIC. At present, researches by the CIC were conducted via two routes: i) the committees to come up with problems and engage consultants to address the problem through research studies; ii) the CIC provides funding for research institutes to carry out researches on relevant topics proposed by the researcher.

For studies conducted via the second route, the CIC exerted little control over the direction of the research and ultimately the applicability of the research outcome could be questionable. The previously presented research on construction time was a typical example where the needs of the industry had not been fully addressed in the research.

With the amended operation framework of the CIC research fund, committees would be given opportunities to set research topics and requirements for future research proposals. Research topics should focus on practicality and applicability with regard to the potential outcome.

4.4 Application for CIC Research Fund - International Best Practices in Subcontractor Registration and Performance Appraisal

JaW briefed Members on Paper CIC/CPT/P/013/16, seeking Members' endorsement on the Research Proposal: International Best Practices in Subcontractor Registration and Performance Appraisal for funding by the CIC research fund.

[Ir Prof Sam CHAN and Dr Kelwin WONG joined the meeting at this juncture.]

Ir Prof Sam CHAN and Dr Kelwin WONG of The University of Hong Kong gave a presentation on their research proposal. The research objectives were:-

- review the existing subcontractor registration scheme;
- identify the barriers to subcontractor registration;

Action

- study overseas subcontractor registration practices;
- consider the implications of mandatory registration; and
- propose a viable roadmap towards mandatory registration.

KCT questioned if the net benefits of subcontractor registration in overseas markets would be examined. He further suggested to compare the performance of those construction markets with and without subcontractor registration.

Ir Prof Sam CHAN replied that the purpose of registration was to ensure a basic standard in the performance of the subcontractors and was generally regarded as conducive to subcontractor performance. The suggestion to compare between those markets with and without subcontractor registration was well noted and would be considered to be incorporated into the research.

PC opined that the research direction should not be bounded by the recommendations from the Tang Report. The research should explore all effective ways to manage subcontractors rather than focusing on mandatory registration.

LN suggested that emphasis should be put on raising the standard of subcontractors through existing voluntary registration scheme.

KCT commented that when drawing comparison with Singapore, their extensive use of imported labour should be taken into consideration.

CYT commented that there were characteristics unique to the Hong Kong construction market which should be taken into account when comparing with overseas experiences. He also noted that the variations in the size of subcontractors should be considered in the research.

Mr Edwin WONG opined that given the unique characteristics of Hong Kong construction market, direct comparison with overseas practices might not be entirely applicable. He further suggested that building services and E&M subcontractors would have different mode of operations and should be specifically considered in the research. In light of the recommendation in the Building for a better future: Vision 2030 for the Hong Kong Construction Industry (“Vision 2030 Report”) for mandatory registration by 2020, the research should also suggest a feasible roadmap to

Action

realise such goal.

DH suggested that the research should explore the reasons behind the subcontractors who resisted registration.

[Due to early departure, PC raised an A.O.B. item at this juncture. Details of the discussion may be found under agenda item 4.9(e).]

HWC commented that the value of specialist subcontractors should be considered in the research. He further suggested that the research should examine the apparent multi-layered subcontracting, when in fact these could be subcontracting of further subdivided trades which was borne out of necessity.

[PC left the meeting at this juncture.]

LN commented that he had strong reservations on the recommendations given by the Vision 2030 Report as previously mentioned. He opined that the Vision 2030 Report did not address the actual needs of the construction industry from the view of stakeholders.

Mr Edwin WONG reiterated that the Development Bureau had not formed any view on mandatory registration. Members' concerns on the future development of subcontractor registration had already been conveyed to the consultant during the Vision 2030 Report preparation. He suggested similar studies of such nature would help to assess and tackle the problems in order to gain industry wide consensus on the way forward for subcontractor registration.

The Chairperson requested the researcher to revise their research proposal addressing Members' comments for further endorsement.

CIC
Secretariat

[LN, Ir Prof Sam CHAN and Dr Kelwin WONG left the meeting at this juncture.]

[Post meeting note: A revised research proposal was prepared by the researcher to address Members' comments. The revised research proposal was endorsed by circulation on 30 December 2016.]

Action

4.5 Presentation of the “Product Conformity Certification Scheme for Passive Fire Protection Products (Fire Door & Non-load bearing Fire Partition)”

[Dr Lipmann SZE, Ms Maria LAU and Ir Dr Mckey HO joined the meeting at this juncture.]

Dr Lipmann SZE of the Hong Kong Institute of Steel Construction gave a presentation on the Product Conformity Certification Scheme for Passive Fire Protection Products (Fire Door & Non-load bearing Fire Partition) for Members’ information.

DH questioned whether the current certifying bodies would be able to handle the work load if the entire construction industry adopted the certification scheme. The industry would be concerned if there were delays caused by insufficient administrative support on certification.

Dr Lipmann SZE replied that as previous versions of the certification scheme had already been in operation in Hong Kong for the past 10 years, there were a number of certifying bodies which could fulfil the certification demand. However, projected demand for certification was not available at this moment.

HWC questioned if:

- (a) there were any identified incidents of product failure after installation despite passing sample testing under the testing regime of the Buildings Department;
- (b) would product certification replace the need for sample testing;
- (c) if relevant governing authorities such as Fire Services Department and Buildings Department provided their input on the certification scheme; and
- (d) if the current adoption of the scheme was by local or overseas production lines?

Dr Lipmann SZE replied that under the certification scheme, products were certified after satisfactory testing results and the certification would remain in effect indefinitely as long as the construction, production method, materials and components of the product remained unchanged.

Action

Close communication with the relevant authorities were maintained to receive feedback on the scheme from both users' (Housing Department) and governing bodies' (Buildings Department) perspectives.

SLW questioned how the scheme would deal with niche products where the quantity used might be very small and sample testing might not be feasible.

Dr Lipmann SZE replied and Ir Dr McKey HO supplemented that under the current practice, only representative samples of certified products would require product testing.

[Dr Lipmann SZE, Ms Maria LAU and Ir Dr Mckey HO left the meeting at this juncture.]

4.6 Reference Materials - Standard Form of On-demand Performance Bond with Conditions

KnH briefed Members on Paper CIC/CPT/P/014/16 seeking Members' endorsement of the "Reference Materials - Standard Form of On-demand Performance Bond with Conditions" for publication on the CIC website.

Further to Members' comment at the last meeting, an introductory note had been prepared addressing Members' concerns on the use of on-demand bonds.

KCT commented that the Standard Form might not have catered for instances where the principal's bank changed during the course of the project. He also remarked that the Standard Form appeared to be applicable only to main contractors.

DH stated the HKCA's position of objecting any form of on-demand bonds.

Mr Edwin WONG questioned if the Standard Form had catered for instances where the contractor changed its company name.

RYC replied that the main purpose of the Standard Form was to stipulate the fundamental rights and responsibilities of the parties under the bond. It was not intended for the Standard Form to anticipate and cater for any and all possible scenarios which might

Action

occur during the course of a project. In the case of a name change, there were other established business transaction procedures to handle such processes.

CWK suggested a minor textual amendment on the introductory note.

HWC reiterated that the Standard Form was issued purely for reference by the industry where such bonds were used. Ultimately, the CIC was not encouraging the use of on-demand bond in construction projects.

PHL commented that the Standard Form, albeit with no binding effect, would hopefully exert some pressure on employers to act responsibly on the issue of on-demand bonds.

Noting HKCA's objection, Members endorsed the Reference Materials.

4.7 Update on Subcontractor Registration Scheme (SRS) Operations

CLW clarified the total number of registered subcontractors under the SRS mentioned by the researcher of The University of Hong Kong should be around 5,400 rather than the quoted figure of around 9,000, which referred to the number of new applications received.

Members took note of Paper CIC/CPT/P/015/16 regarding the latest status of SRS operations. CWL reported that as in mid-November 2016, a total of 5,431 companies were registered under the SRS. CWL further reported that regulatory hearings were conducted by the Management Committee (MC) of the SRS on 1 November 2016. Of the six companies in question, three of them were imposed with the sanction of written warning and the other three with suspension of registration ranging from 3 to 6 months.

4.8 Tentative Meeting Schedule for 2017

Members took note of Paper CIC/CPT/P/016/16 with the proposed meeting schedule of the Com-CPT for 2017. **All to note**

Action

4.9 Any Other Business

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

KCT updated Members that a legal consultant was engaged to draft the Simplified Standard Form of Domestic Sub-contract.

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

CWL updated Members that the Task Force held its 5th meeting on 19 September 2016 and expressed support to the proposed research study on holistic review of the SRS as initiated by the HKU researcher under the CIC Research Fund, which was discussed under agenda item 4.4.

The Task Force also agreed in principle to extend the renewal period of registration from the current 2 years to 5 years in order to lessen administrative burdens. The Secretariat was directed to work out the details and study the required changes to computer system settings, fee structure and documents in due course for the Task Force's further consideration.

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

PHL updated Members that a consultant would be engaged to undertake the drafting of the Reference Materials. The Task Force deliberated on the general direction and expected outcome of the Reference Materials in their previous meeting. The Task Force would deliberate on other related issues in detail in subsequent meetings.

In response to KCT's question if the Reference Materials would solely focus on works of the public sector, PHL replied that both the public and private sector would be considered for this exercise.

Action

(d) Progress Update of the Task Force on NEC3 Collaborative Contracts

SMH updated Members that the “Reference Materials - NEC Case Book: Improvement of Fuk Man Road Nullah in Sai Kung” was published on the CIC website.

A technical seminar on various topics of NEC3 and third party contract rights was conducted on 22 September 2016 and was well attended by industry stakeholders.

In view of the growing popularity in the use of NEC3 in the industry, the Task Force would consolidate the experience gained in the past few years to address the needs of industry stakeholders when undertaking NEC3 projects.

Mr Edwin WONG shared with Members that the Development Bureau had issued its Practice Notes for NEC: Engineering and Construction Contract for Public Works Projects in Hong Kong. Target cost contracts would be adopted for projects of value above \$2bn. It was hoped that a pool of professionals well versed in NEC could be developed to undertake future NEC projects.

Works departments would also aim to engage consultants with NEC: Professional Services Contract in at least one project in the coming year.

The Practice Notes for Professional Services Contract and Term Services Contract would be issued in the 1st quarter of 2017.

(e) Other A.O.B.

PC suggested that technical seminars organised by the CIC should be free of charge, as CIC already received funding from the industry through levy.

MYP explained that while other seminars, such as those on safety topics were free of charge, those featuring procurement issues or targeted at industry professionals were charged at a cost recovery level to facilitate venue preparation and other logistics arrangements. Having received the comment, the

Action

CIC would review the level of registration fee for such seminars in the future.

4.10 Date of Next Meeting

The next meeting would be scheduled for Thursday, 23 March 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 6:20 p.m.

CIC Secretariat
February 2017