

Construction Industry Council

Committee on Procurement

Meeting No. 004/13 of the Committee on Procurement was held on Wednesday, 13 November 2013 at 2:30pm at Meeting Room No.1, 15/F, Allied Kajima Building, 138 Gloucester Road, Wanchai, Hong Kong.

Present	: Tai-chong CHEW	(TCC)	Chairman
	Allan CHAN	(SKC)	
	Anthony CHAN	(AnCN)	
	Siu-hung CHAN	(SHC)	
	Paul CHONG	(PC)	
	Steve GRIFFIN	(SGN)	MTR Corporation Limited
	Sing-mo HO	(SMH)	CLP Power Hong Kong Limited
	Thomas Kwok-kwan HO	(KnH)	Hong Kong Institute of Surveyors
	Raymond NG	(RyN)	Independent Commission Against Corruption
	Victor TAI	(VTi)	Development Bureau (<i>on behalf of Kelvin LO</i>)
In Attendance :	Rocky FOK	(RF)	Architectural Services Department
	Christopher TO	(CT)	Executive Director
	Claire LEE	(CeL)	Manager – Council Services
	Julian LEE	(JnL)	Manager – Research
Apologies	: Reuben CHU	(RCU)	
	Duncan PESCOD	(DWP)	
	Kevin POOLE	(KP)	
	Irene CHENG	(ICG)	Hong Kong Housing Authority
	Peter Kar-shing CHENG	(PChg)	New World China Land Limited
	Andrew SIMPSON	(ASN)	Centari Consulting Limited
	Kelvin LO	(KLo)	Development Bureau
	Kwok-hung LI	(KkHL)	Civil Engineering and Development Department

PROGRESS REPORT

4.1 Confirmation of the Progress Report of the Committee Meeting No. 003/13

Members took note of the Paper CIC/PCM/R/003/13 and confirmed the Progress Report of Meeting No. 003/13 of the Committee on Procurement (Com-PCM) held on 23 September 2013.

4.2 Matters Arising from the Previous Meeting

(a) Item 3.3 – Issues on On-Demand Bonds

Regarding the formation of the Special Group on On-Demand Bonds, the CIC Secretariat circulated the draft Terms of Reference and proposed Membership List of the Special Group for Members' review on 26 September 2013. Details were discussed under Agenda Item 4.3.

(b) Item 3.4 – Issues on Construction Programme

Regarding HKCA's proposal on setting benchmarks for reasonable construction programmes for different types of works in Hong Kong, further to the Chairman's suggestion at the last meeting, the CIC research team has undertaken an initial study on the subject. Details were discussed under Agenda Item 4.4.

4.3 Issues on On-Demand Bonds

Members took note of the Paper CIC/PCM/P/020/13 on the formation of the Special Group on On-Demand Bonds.

Members were briefed on the progress on the formation of the Special Group on On-Demand Bonds. It was reported that the draft Terms of Reference and proposed Membership List of the Special Group were endorsed by the Chairman and accepted by Members with no further comments. Formal invitations were subsequently sent to the organisations and members listed on the Membership List. Acceptance replies and nominations of representatives for the Special Group were received from most of the listed organisations and members, while HKCA advised that it would submit its nomination by 15 November 2013 upon seeking approval at its Council meeting. The Secretariat would arrange for the first meeting of

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the Special Group upon receiving the reply from HKCA.

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Members noted and endorsed the Terms of Reference and updated Membership List of the Special Group on On-Demand Bonds.

[PMN: Nomination from HKCA was received on 15 November 2013.]

4.4 Issues on the Construction Programme

Members took note of the Paper CIC/PCM/P/025/13 regarding relevant issues on the construction programme. Members were briefed on the findings of the initial study undertaken by the CIC's in-house research team.

Sharing of findings from CIC research team

- CIC's research team reported various types of research that had been conducted to develop construction time model and elaborated on the factors affecting project duration. The CIC research team conducted a pilot study to analyse the construction duration (in terms of duration per HK\$M contract sum and duration per 1,000m² GFA) of three residential and four office building developments in Hong Kong. The project duration was compared with four residential and four office building developments in Singapore, and the findings were shared with Members.
- It was concluded from the findings that there were no 'hard-and-fast' rules for determining a realistic construction programme. Considering the complexity and dynamic nature of construction projects, it was proposed to commission a Consultant to conduct an extensive research to investigate the time performance of building construction projects in Hong Kong.
- The proposed research would be entitled "Assessing the Time Performance of Building Construction Projects in Hong Kong". The research objectives and scope would be put forward based on relevant literature, Members' views expressed via Com-PCM, as well as the proposal compiled by the HKCA.

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- The research would aim to review the issues related to the construction programme in Hong Kong and to provide pragmatic solutions to elevate the competitiveness of the construction industry via promoting the ongoing development and improvement of the industry on time performance. The key objectives of the Research would be:
 - (a) To review the current situations of project scheduling in local construction practices, focusing on whether the project programmes are highly compressed and if so, the reasons behind;
 - (b) To collect views from various stakeholder groups in the local construction industry on the necessity and appropriateness of setting benchmarks for the construction programme in Hong Kong;
 - (c) To compare the time performance of various type of construction projects in similar economies;
 - (d) To identify the key factors affecting project duration in the local construction industry; and
 - (e) To formulate strategies to enhance the time performance of the local construction industry for its sustainable development.

- It was anticipated that the research would take 18 months to complete and should cover major types of private building projects, as the benchmark of standardised public housing blocks' project duration was well-established and examining time performance of civil engineering works projects might be problematic or non-conclusive. It was hoped that a practical guide would be issued for industry practitioners to formulate a practical and efficient construction programme, as well as to enhance their productivity without compensating quality, safety and cost. If funded, the research will be jointly monitored by the TF-Research and CIC research team.

PC suggested including a comparison of the actual project duration against the originally planned project duration to examine whether these would be a great deviation. He understood that it might be difficult to obtain the original duration as it was often compressed by the client and could

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hardly reflect the true original data.

The Chairman concurred that it would be extremely challenging to ask the client to provide the original data as it was always possible to compress the project time if additional resources were invested. However, he agreed that it was worth trying to include this question in the research, while a low response rate might be envisaged.

SHC pointed out that there were many varieties and different needs from the clients for each individual project, and it would be difficult to obtain a meaningful benchmark for all construction programmes. However, the research findings could form some reference for the clients, contractors and the stakeholders in the construction industry. The research could establish some sort of “as-it-is” information for different kinds of building construction projects and build a database for the industry’s reference during the preparation stage of contract specification, particularly on time duration concern.

After much deliberation, the Chairman agreed to start the research with private building projects and requested the CIC’s research team to examine if it could be funded by the CIC research fund.

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4.5 Development Bureau Technical Circular (Works) No. 5/2013 on Extension of Time due to Labour Shortage

Members took note of the Paper CIC/PCM/P/021/13 regarding the Development Bureau Technical Circular (Works) No. 5/2013 on Extension of Time due to Labour Shortage.

In response to Members’ questions on the background and purpose of the Technical Circular, VTi advised that the aforementioned technical circular was issued on 19 July 2013 and was effective on or after 15 August 2013, informing the contractors that the clause regarding shortage of labour was taken out from the General Conditions of Contract (GCC), and the contractors were entitled to claim an extension of time if the cause of the delay was due to a shortage of labour. He elaborated that it could only be claimed under special circumstances and it had to be considered on a case by case basis. On claiming an extension of time due to shortage of labour, the genuineness of the reasons should be justified. If

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the shortage of labour was already known at the time of tendering, it could hardly be classified as special circumstances to claim for an extension of time.

VTi further supplemented that even though the clause regarding shortage of labour had been taken out from GCC, the Government would have the mechanism to put the clause back for some specific contracts when needed, such as contracts for projects with special requirements or specific completion time.

The Chairman advised that the MTR had sent a letter to the Development Bureau seeking discussions on this subject as requested by HKCA, but Development Bureau's reply was still pending.

4.6 Report of the Task Force on Competition Law

Members noted that the Executive Director of the CIC delivered a presentation on the topic "The Effect of Competition Legislation on the Construction Industry in the Asian-Pacific Region" at the Global Competition Law Forum 2013 in Seoul, South Korea on 15 October 2013. The presentation was well-received. The Executive Director has also been invited to participate in the 9th Asian Competition Forum conference on 10th December 2013.

Members were also advised that the Task Force Chairman and the CIC Secretariat had taken note of Members' comments provided at the last meeting, and were developing a roadmap for the Task Force. A roadmap and the related deliverables would be ready for discussion at the next Task Force meeting on Competition Law.

4.7 Report of the Task Force on NEC3 Collaborative Contracts

Members took note of the Paper CIC/PCM/P/022/13 regarding the Draft Frequently Asked Question (FAQ) Document on NEC3 Collaborative Contracts.

The Chairman of the Task Force on NEC3 Collaborative Contracts, SMH, updated Members on the progress of the Task Force. A revised draft FAQ document on NEC3 Collaborative Contracts taking into account the comments received from Task Force Members was prepared and circulated to Members

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for comment.

The CIC Secretariat conveyed a comment received from the representative of the Hong Kong Housing Authority (HKHA) regarding Question 2.6 of the draft FAQ document. The comment would be duly addressed by the Chairman of the Task Force.

In response to the request of the representative of Hong Kong Institute of Surveyors (HKIS) for 3 more weeks to collect feedbacks and comments from his association, the Chairman agreed to give 3 weeks extension to collect feedbacks from HKIS as well as to fine-tune/ revise Question 2.6 in response to HKHA's comment.

SHC was of the view that training was crucial to the implementation of NEC3. He suggested organising seminars /forums on this topic to share experience on application, lessons learnt and implementation of NEC3 might be helpful.

The revised draft FAQ document would be circulated to the Real Estate Developers Association (REDA) and the Independent Commission Against Corruption (ICAC) for comment, as appropriate, and the Section Leaders and Reviewer of the Task Force would continue to edit the document and hold further meeting(s) to discuss and fine-tune the document before finalising it for formal submission to the Com-PCM in 2014.

4.8 Report of the Task Force on the Selection of Consultants and Contractors

Members were briefed on the progress of the draft Reference Materials on the Selection of Consultants. A revised draft of the Reference Materials on the Selection of Consultants had been prepared. It had sought to reconcile the further comments received from members. The final draft with further input from the Report Editor and the Chairman would be submitted for further consultation as appropriate before submitting to the Com-PCM for comment. It was targeted to finalise the approved draft of the Reference Materials by April 2014.

4.9 Report of the Task Force on Employer-Procured Insurance Policies in Construction Contracts

Members took note of the Paper CIC/PCM/P/026/13 regarding

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the progress of the Task Force on Employer-Procured Insurance Policies in Construction Contracts, as well as the fact sheet template on Owner-Controlled Insurance Programme (OCIP) in Construction Contracts.

The Chairman of the Task Force on Employer-Procured Insurance Policies in Construction Contracts, SGN, briefed Members on the progress of the Task Force. Members were advised that the Task Force agreed to publish a fact sheet, giving general information on the application of OCIP in construction contracts. The Task Force Members would start drafting the Fact Sheet in the coming months and to come up with a draft for the Com-PCM's comment in mid 2014.

4.10 Year Plan for 2013/2014 – Progress Review

CeL introduced the Paper CIC/PCM/P/023/13 regarding the progress review as well as updating the Year Plan 2013-2014 for the Com-PCM. Members noted and confirmed the Year Plan.

4.11 Meeting Schedule for 2014

CeL introduced the Paper CIC/PCM/P/024/13 regarding the meeting schedule of the Com-PCM for 2014. Members noted and confirmed the Meeting Schedule of the Com-PCM for 2014.

4.12 Any Other Business

The Chairman expressed that Com-PCM could help shape the industry through changes to the procurement process by providing guidance to the industry. To plan for the new initiatives for Com-PCM's in 2014, the Chairman invited Members to provide inputs on subjects involving a procurement angle to further support the industry.

The Chairman was of the view that safety within construction was crucial and would like to ascertain whether procurement had a role to play within this context. He invited Members to think of any safety elements which could stem from the procurement angle so as to help uplift the overall safety standards of the industry.

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Members concurred with the Chairman's suggestion and would provide more thoughts for further discussion in the coming meeting(s).

4.13 Date of Next Meeting

Monday, 10 March 2014 at 2:30pm at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, Wanchai, Hong Kong.

All to note

[PMN: The re-structuring of the CIC Committees has been approved by the Council at its meeting held on 6 December 2013. Due to the restructuring, the Committee on Procurement and the Committee on Subcontracting have been merged into a single committee, renamed as "Committee on Procurement and Subcontracting (Com-PNS)". After confirming with the Chairman and Members, the date for the first meeting of the new Com-PNS (Meeting No. 001/14) will be held on 23 May 2014 at 2:30pm at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, Wanchai, Hong Kong.]

There being no further business, the meeting adjourned at 4:08pm.

**CIC Secretariat
March 2014**