

Construction Industry Council

Committee on Procurement

Meeting No. 001/13 of the Committee on Procurement was held on Wednesday, 20 March 2013 at 2:30pm at Meeting Room No.1, CIC Headquarters, 15/F, Allied Kajima Building, 138 Gloucester Road, Wanchai, Hong Kong.

Present	: Tai-chong CHEW	(TCC)	Chairman
	Allan CHAN	(SKC)	
	Paul CHONG	(PC)	
	Kevin POOLE	(KP)	
	Irene CHENG	(ICG)	Hong Kong Housing Authority (<i>on behalf of Duncan PESCOD and as a Co-opted Member</i>)
	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
	Andrew SIMPSON	(ASN)	Centari Consulting Limited
	Victor TAI	(VTi)	Development Bureau (<i>on behalf of Kelvin LO</i>)
Wah-hoi MOK	(WHM)	Independent Commission Against Corruption	
In Attendance :	Francis LEUNG	(FLG)	Architectural Services Department
	Alex LEUNG	(AL)	Senior Manager – Council Services 1
	Carmen LIU	(KML)	Manager – Council Services 6
Apologies	: Anthony CHAN	(AnCN)	
	Siu-hung CHAN	(SHC)	
	Reuben CHU	(RCU)	
	Duncan PESCOD	(DWP)	
	Peter Kar-shing CHENG	(PChg)	New World China Land Limited
	Kelvin LO	(KLo)	Development Bureau
	Kwok-hung LI	(KkHL)	Civil Engineering and Development Department

PROGRESS REPORT

Open-Door Session

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1.0. Opening of the Meeting

Chairman proposed a vote of thanks to the three former Members of the Committee on Procurement (Com-PCM), namely Ir Dr. Andrew CHAN, Ir Thomas On-shing HO and Mr Wo-hei LAM, who had retired from the Council in January 2013. Chairman also welcomed three new Council Members joining the Com-PCM and they were Ir Allan CHAN, Mr Anthony CHAN and Ir Prof. Reuben CHU.

1.1. Confirmation of the Progress Report of the Committee Meeting No. 004/12 (Open-Door Session)

Members took note of the Paper CIC/PCM/R/004/12 and confirmed the Progress Report of Meeting No.004/12 of the Com-PCM - Open-Door Session held on Friday, 7 December 2012.

1.2. Matters Arising from the Previous Meeting (Open-Door Session)

(a) Item 4.4 – Revised Categorisation of the CIC Publications

At the last meeting of the Com-PCM, some Members raised enquiries on the revised categorisation of the CIC Publications. As suggested by the Chairman, the Secretariat gathered the relevant Council Paper and enclosed it in Paper CIC/PCM/P/001/13 for Members' consideration. Details were discussed under Agenda Item 1.3.

(b) Item 4.6 – Summary Reports of the Task Group on NEC3 Collaborative Contracts

The Task Group on NEC3 Collaborative Contracts had embarked on drafting an FAQ document. A preliminary draft version of the FAQ document on NEC3 Collaborative Contracts was enclosed in Paper CIC/PCM/P/004/13 for Members' information. Details were discussed under

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Agenda Item 1.5.

(c) Item 4.7 – Report of the Task Force on the Selection of Consultants and Contractors

An edited draft of the Guidelines on the Selection of Consultants was under review by the Task Force Chairman and the various Chapter Authors. Details were discussed under Agenda Item 1.6.

1.3. Revised Categorisation of the CIC Publications

Members took note of the Paper CIC/PCM/P/001/13 regarding the revised categorisation of the CIC publications. Members also reviewed the documents formerly published by the Com-PCM, namely the “Guidelines on Partnering” and the “Guidelines on Contract Price Fluctuation System”, and determined whether any changes to their categorisation were required.

It was agreed that the aforesaid two Guidelines could maintain the original categorisation with the previous descriptions or definitions of the categories as specified in the “Preface” of the published materials. It was further suggested that the effective date of the new categorisation should be clearly defined so as to draw a clear line of demarcation. A note was suggested to be placed on the CIC website to state the effective date of the revised categorisation for the new publications.

In terms of the definitions of the new categorisation, a Member enquired on the justifications required and the consequences of not following the Guidelines or Codes of Conduct. The Chairman stated that the enquiries should be referred to the Council for deliberation and follow-up.

In response to KP’s query on whether the document that was currently under drafting by his Task Force (i.e. the Draft Guidelines on the Selection of Consultants) would need to be re-categorised according to the new categories, Members suggested that because the document had not been published, it should be revised according to the new categorisation and be categorised as “Reference Materials”.

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1.4. Report of the Task Force on Competition Law

Chairman of the Task Force on Competition Law, ASN, briefed Members on the progress and possible deliverables of the Task Force.

Members were informed that the article, entitled “Hong Kong’s New Competition Law: An Introduction”, previously submitted to the Com-PCM at its Meeting No. 004/12 and to the Council at its Meeting No. 006/12 would be published in the CIC newsletter for stakeholders’ information.

Members also took note of the tabled Paper CIC/PCM/P/008/13 enclosing a copy of the information brief prepared by ASN which summarised the key points of the Competition Ordinance in two pages. Members reviewed the Paper and endorsed its publication as a Fact Sheet in the CIC website.

ASN further advised Members that a “Competition Law cum Security of Payment Forum” was scheduled for 3 May 2013. The morning session of the Forum would focus on the Competition Ordinance and the associated compliance measures. A copy of the event flyer was circulated for Members’ information and Members were invited to attend and support the event.

1.5. Report of the Task Force on NEC3 Collaborative Contracts

(a) Progress Updates of the Task Force and Task Group on NEC3 Collaborative Contracts

Members took note of the Papers CIC/PCM/P/002/13 and CIC/PCM/P/003/13 enclosing the Summary Reports of Meeting Nos. 003/12 and 001/13 of the Task Group on NEC3 Collaborative Contracts.

Chairman of the Task Force and Task Group on NEC3 Collaborative Contracts, SMH, briefed Members on the progress of the Task Force and Task Group. Members were advised that the Task Group had embarked on drafting a Frequently Asked Question (FAQ) document on NEC3 Collaborative Contracts. A preliminary draft version of the document was enclosed in the Paper CIC/PCM/P/004/13

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for Members' information.

Members were also informed that the draft FAQ document was under review by Task Force Members and that the Task Force and Task Group on NEC3 Collaborative Contracts would further edit the draft FAQs, and if appropriate, circulate the draft document to the Real Estate Developers Association of Hong Kong (REDA) and/or the Independent Commission Against Corruption (ICAC) for comment before finalising it for formal submission to the Com-PCM for endorsement targeting by the end of 2013. SMH invited Members to give comments and provide inputs, if any, on the draft FAQs for the Task Force and Task Group's consideration.

(b) CIC's Position on NEC3 Collaborative Contracts

With the aim of clarifying the Terms of Reference and objectives of the Task Force, SMH invited Members to deliberate on CIC's position regarding the application of NEC3 Collaborative Contracts in Hong Kong. Key points of Members' deliberation were summarised as follows:

- TCC declared that he is the Chairman of the NEC Asia Pacific Users' Group.
- SMH stated that the original objective of the Task Force was to explore the suitability of applying NEC3 Collaborative Contracts in the Hong Kong construction industry. However, in light of the current limited experience on the use of NEC3 in Hong Kong, Members agreed that it would be difficult and pre-mature to draw conclusion regarding their suitability for application in the Hong Kong construction industry. As such, the objective and focus of the Task Force would be on the sharing of knowledge and experience on the use of NEC3 as a form of collaborative contracts in Hong Kong, instead of measuring or evaluating the applicability of NEC3 in the Hong Kong construction industry.
- TCC added that the Com-PCM and its Task Force should not be seen as endorsing or promoting the use of

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the NEC3 suite of contracts as it was only one kind of standard forms of contract in Hong Kong. Nevertheless, whilst there was a growing interest or need for industry participants to understand this new form of contract, the Task Force might be set out to aid industry stakeholders' understanding on the subject and that the proposed publication of an FAQ documents could help to achieve such.

- Members noted that the prime objective of the Com-PCM was to promote collaborative working. Whilst the proposed FAQ documents looked into the practical application of NEC3 Collaborative Contracts, a message should be made in the document that there were other means or forms of contract that could be established to encourage collaborative working.

1.6. Report of the Task Force on the Selection of Consultants and Contractors

Chairman of the Task Force on the Selection of Consultants and Contractors, KP, updated Members on the status of the draft "Guidelines on the Selection of Consultants" (to be re-categorised and termed "Reference Materials on the Selection of Consultants").

Members were informed that subsequent to the last meeting of the Com-PCM, the first edited draft of the Guidelines on the Selection of Consultants was circulated to the various Chapter Authors for review. Comments received from two Chapter Authors were being followed-up by KP. It was suggested that a few rounds of editing might be needed and that a Task Force meeting might be held to review the document after incorporating the comments from the Chapter Authors.

Members were further advised that owing to KP's recent engagement as the Chairman of the Committee on Environment and Technology, a new Chairman would be appointed for the Task Force on the Selection of Consultants and Contractors. KP would put forward his proposal on suitable candidate(s) for TCC's consideration. He would also target to complete the first draft of the "Reference Materials on

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the Selection of Consultants” before handing over to the new Task Force Chairman.

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

Members took note of the Paper CIC/PCM/P/005/13 enclosing the Progress Report of Meeting No. 001/13 of the Task Force on Employer-Procured Insurance Policies in Construction Contracts.

Chairman of the Task Force on Employer-Procured Insurance Policies in Construction Contracts, SGN, briefed Members on the progress of the Task Force. It was reported that, at Meeting No. 001/13 of the Task Force, representatives of MTR Corporation Limited (MTR) and the Development Bureau shared with Members MTR’s project insurance approach and details of the Transport and Works Bureau Technical Circular (Works) No. 7/2005 – Procurement of Construction Related Insurance that set out the guidelines on the method of procurement of construction related insurance for public works construction contracts respectively. Task Force Members also shared views and experience on the application of Employer-Procured Insurance Policies in Hong Kong and internationally. SGN noted that, in general, there was no particular objection to the use of Employer-Procured Insurance provided that it was used in the right circumstances, on the right type of contract and that appropriate risk assessment had been undertaken.

In terms of the possible deliverables of the Task Force, SGN, suggested that the preparation of a Fact Sheet or Frequently Asked Question document would be the way forward.

1.8. Year Plan for 2013/2014 – Progress Review

AL introduced the Paper CIC/PCM/P/006/12 regarding the progress review as well as updating of the Year Plan 2013-2014 for the Com-PCM. Members noted and confirmed the Year Plan.

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1.9. Any Other Business

Nil.

1.10. Date of Next Meeting

Wednesday, 19 June 2013 at 2:30pm at Meeting Room 1, CIC **All to note**
Headquarters, 15/F, Allied Kajima Building, Wanchai, Hong
Kong.

[A closed-door session was held between 3:30pm and 4:30pm.]

There being no further business, the meeting adjourned at 4:30pm.

CIC Secretariat
March 2013