

Construction Industry Council

Committee on Procurement

Meeting No. 001/12 of the Committee on Procurement was held on Monday, 16 April 2012 at 3:00 pm at Meeting Room No.1, 15/F, Allied Kajima Building, 138 Gloucester Road, Wanchai, Hong Kong.

Present : Tai-chong CHEW (TCC) Chairman
Paul CHONG (PC)
Wo-hei LAM (WHL)
Kevin POOLE (KP)
Lawrence CHUNG (KWCh) Hong Kong Housing Authority
(for and on behalf of Mr Duncan PESCOD)
Steve GRIFFIN (SGN) MTR Corporation Limited
Sing-mo HO (SMH) CLP Power Ltd
Kelvin LO (KLo) Development Bureau
Andrew SIMPSON (ASN) Hong Kong Polytechnic University

In Attendance : Kwok-hung LI (KkHL) Civil Engineering and
Development Department
Mickey WONG (CWW) Architectural Services Department
(for Mr Francis LEUNG)
Becky YUEN* (BYN) MTR Corporation Limited
Alex LEUNG (AL) Senior Manager – Council
Services 1
Priscilla NG (PN) Assistant Officer – Management
Support

Apologies : Andrew CHAN (AC)
Siu-hung CHAN (SHC)
Thomas HO (TH)
Duncan PESCOD (DWP)
Francis LEUNG (FLG) Architectural Services Department

Remarks: * attended items 1.9 – 1.13 only.

PROGRESS REPORT

Action

1.0. Opening of the meeting

The Chairman welcomed Members to join the meeting.

1.1. Confirmation of the Progress Report of the Committee Meeting No. 004/11

Members took note of the Paper CIC/PCM/R/004/11 and confirmed the progress report of the last meeting held on Wednesday, 23 November 2011.

1.2. Matters Arising from the Previous Meeting

(a) Item 4.4 (c) – Letter from the Hong Kong Federation of Electrical and Mechanical Contractors (HKFEMC)

Members noted that the CIC Secretariat had issued an invitation letter to the HKFEMC on 25 November 2011 inviting their nomination of representative. Mr Kai-yin IP was nominated by the HKFEMC and attended Meeting Nos. 004/11 and 001/12 of the Task Force on NEC Collaborative Contracts.

(b) Item 4.5 (b) – Categorisation of the CIC documents

It was reported that currently there was no update on this issue and the CIC Secretariat would keep Members informed of the latest development of the re-categorisation exercise if any. The Committee agreed to proceed with the drafting of Guidelines which were under preparation in accordance with the current categorisation.

(c) Item 4.6 (c) – Consideration to explore “Issues on Risk Sharing”

The CIC Secretariat was reviewing the Terms of Reference and Membership of the Task Force on Contract Price Fluctuation System (CPFS) with the Task Force Chairman. Details were discussed under agenda item 1.7.

(d) Item 4.7 – Electronic Tendering

CLP Power Ltd (CLP) and MTR Corporation Ltd (MTRCL) had kindly agreed on sharing the electronic tendering experience and practices with Members of the Committee on Procurement (Com-PCM). Further details were discussed under agenda items 1.9 and 1.10.

(e) Item 4.10 – Procurement Factsheet

The CIC Secretariat would prepare a template of factsheet for Members to provide input and information.

Action

1.3. Progress Report of Meeting No. 003/11 of the Task Force on Competition Law

Members took note of the Paper CIC/PCM/P/001/12 regarding the Progress Report of Meeting No. 003/11 of the Task Force (TF) on Competition Law.

ASN briefed Members that the TF generally supported the Competition Bill in principle. Major views and concerns discussed in the TF meeting were incorporated into the submission for the summary of views and concerns of the construction industry on Competition Bills to the Legislative Council (LegCo). It was reported that after clearance by the Com-PCM and the Committee on Administration and Finance (Com-ANF) as advised by the Council, the abovementioned submission had been issued to the Bills Committee on Competition Bill of the LegCo on 28 March 2012.

Members also took note of the possibility of organising a workshop to enhance understanding of Competition Law with the industry practitioners in Hong Kong. The workshop would likely to be focused on the possible implications of Competition Law for the local small and medium-sized enterprises (SMEs).

(SMH and KkHL joined the meeting at 15:15)

1.4. Submission to the Bills Committee for the Summary of Views and Concerns of the Construction Industry on Competition Bill

Members took note of the Paper CIC/PCM/P/002/12 regarding the status of the submission to the LegCo Bills Committee for the summary of views and concerns of the construction industry on Competition Bill. As mentioned previously, the captioned submission had been issued to the Bills Committee on Competition Bill of the LegCo on 28 March 2012 after the endorsement by the Com-PCM and the Com-ANF. It was currently pending response/feedback from the LegCo.

Action

1.5. Progress Reports of Meeting No. 004/11 & Meeting No. 001/12 of the Task Force on NEC3 Collaborative Contracts

(a) Progress of the Task Force

Members took note of the Papers CIC/PCM/P/003/12 and CIC/PCM/P/004/12 regarding the Progress Reports of Meeting No. 004/11 & Meeting No. 001/12 of the Task Force (TF) on NEC3 Collaborative Contracts (NEC) respectively.

As discussed earlier in item 1.2 (a), Members noted that Mr Kai-yin IP was nominated by the HKFEMC and had attended meeting nos. 004/11 and 001/12 of the TF-NEC.

Members were advised that TF members had shared common pitfalls and solutions, and their local and overseas experience in the application of NEC in previous TF meetings.

Regarding the stock taking of local NEC contracts, SMH advised that the TF would provide an updated project list on local NEC contracts by the end of April.

Members also noted that the CIC Secretariat would invite Mr Keith KEOWN to share his paper titled “Is Hong Kong Ready for NEC?” which won a prize in the Society of Construction Law Hong Kong Competition. *(Post meeting note: Mr KEOWN had kindly accepted the invitation and agreed to present his paper at the next TF meeting)*

(b) Technical Forum on NEC3 Collaborative Contracts

Members noted that the Technical Forum on NEC3 Collaborative Contracts was successfully held on 7 March 2012. SMH gave heartfelt thanks to Members and all for their support to the event. Members noted that some questions from the floor had been directed to relevant speakers, panel members and TF members for the preparation of referencing materials in the form of FAQ or procurement factsheet.

PC raised his concern on the arrangement of sub-contracting in relation to the adoption of NEC3 collaborative contracts. SMH responded that the TF would address this matter at its future meetings.

TF-NEC

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1.6. Meeting Summary of Meeting No. 004/11 of the Task Group on the Selection of Consultants

(a) Progress of the Task Group

Members took note of the Paper CIC/PCM/P/005/12 regarding the Meeting Summary of Meeting No. 004/11 of the Task Group (TG) on the Selection of Consultants (SCT).

Members were advised that the drafting of Guidelines on the Selection of Consultants was in progress. KP expressed appreciation to the writers for their effort. Final review and editing of the draft would be required to avoid overlapping of content as well as to ensure consistency. After completion of edition and comprehensive review by the Task Force (TF) on the Selection of Consultants and Contractors (SCC) and the TG-SCT, the draft Guidelines would be submitted to the Com-PCM for comment.

As a new member of the Com-PCM, PC expressed interest in joining the TF and its TG as a member, and it was accepted by the Com-PCM.

1.7. Report of the Task Force on Contract Price Fluctuation System

(a) Technical Seminar on Contract Price Fluctuation System

Members noted that the Technical Seminar of CPFS was successfully held on 21 March 2012. The purpose of the Technical Seminar was to promulgate the issued Guidelines on CPFS. SGN thanked various stakeholders of the industry for their support to the captioned technical seminar.

Members were advised that a question about the issue on indices was raised from the floor by the Hong Kong Construction Association during the Q&A section. After much discussion, it was decided that any feedback on the issued guidelines could be considered in its future update.

(b) Issues on Risk Sharing

SGN reported that the TF Members had generally agreed to narrow down the topics on risk sharing to one or two areas for further review and investigation by the TF-CPFS. The Terms of Reference and Membership of the TF were currently under review by the TF Chairman and the CIC Secretariat.

**SGN/CIC
Secretariat**

After much discussion, the Chairman remarked that the

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views of the HKFEMC on the issue of indices and worker's wage could be addressed at the next TF meeting. It might also be referred to the relevant committee (e.g. Committee on Sub-contracting) if appropriate.

1.8. Nomination of Co-opted Members for the Committee on Procurement 2012-2014

Members took note of the Paper CIC/PCM/P/006/12 regarding the nomination of Co-opted Members for the Com-PCM in 2012-2014.

Members were briefed that the proposed list of Co-opted Members of the Com-PCM had been circulated to Members on 21 March 2012. As no objection had been received from the Com-PCM Members by the target date of 26 March 2012, the CIC Secretariat had sent out invitations to the respective organisations / associations for nominations.

1.9. Sharing of Electronic Tendering Experience and Practices by MTRCL

Members took note of the Paper CIC/PCM/P/007/12. Representative of the MTRCL, Ms Becky YUEN shared MTRCL's electronic tendering (e-Tendering) experience and practices.

BYN briefly introduced the e-Tendering System adopted by the MTRCL including its background, system overview, process flow, system architecture, and system security. The main purpose of establishing the "e-submission" system in year 2001 was to provide an electronic platform for the trading partners to exchange documents via secured channels with the use of internet technology.

Members were briefed on the benefits of the implementation of the e-Tendering System by the MTRCL including cost saving, enhancement in efficiency and effectiveness, improvement in tender management process and security, and environmental protection.

BYN also shared the key challenges of adopting the e-Tendering System as well as the system's recent enhancements.

In response to a Member's question on the system's storage capacity, SGN advised that with periodic system upgrade, the current e-Tendering System of the MTRCL was able to cope

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with the high volume of large file uploads.

1.10. Sharing of Electronic Tendering Experience by CLP

Members took note of Paper CIC/PCM/P/008/12. Representative of the CLP, Mr SM HO shared CLP's experience and practices on e-Tendering.

Members were briefly introduced of the procurement process and overview of the e-Tendering system of the CLP. The CLP first introduced its e-Tendering System in year 2000. The benefits of using the e-Tendering System included protection to the environment, streamlined process and good governance, etc. SMH also shared the success factors of the CLP and the way they overcame and mitigated some issues in relation to the use of the e-Tendering System.

Regarding the issue on fairness for setting a default 2-hour dead zone after the closing of tender that allowed slight extension of bid submission, SMH clarified that such mitigating measure could only be used with special approval which based on substantial and reasonable causes regarding cases of last-minute uploads.

1.11. Year Plan for 2012/2013 – Progress Review

AL introduced the paper CIC/PCM/P/009/12 regarding the progress review as well as updating of the Year Plan 2012/2013 for the Committee on Procurement. Members noted and confirmed the year plan.

1.12. Any Other Business

Nil.

1.13. Next Meeting

13 June 2012 (Wednesday) at 2:30 pm at Meeting Room 1, CIC Headquarters, 15/F, Allied Kajima Building, Wanchai, Hong Kong **All to note**

There being no further business, the meeting adjourned at 17:05.

CIC Secretariat
April 2012