

Construction Industry Council

Committee on Procurement

Meeting No. 004/11 of the Committee on Procurement was held on Wednesday, 23 November 2011 at 2:00 pm at Board Room, 23/F, MTR Headquarters Building, Telford Plaza, Kowloon Bay, Kowloon, Hong Kong.

Present : Tai-chong CHEW (TCC) Chairman
Andrew CHAN (AC)
Siu-hung CHAN (SHC)
Oi-ki Peter LAM (OKL)
Mung-wan WONG (MWW) Housing Authority
(*On behalf of Mr. Duncan PESCOD
& for Mrs. Irene CHENG*)
David TONG (DT) Development Bureau
Wah-hoi MOK (WHM) Independent Commission Against
Corruption
Kevin POOLE (KP) Airport Authority Hong Kong
Thomas (THO) Hong Kong Institute of Surveyors
Kwok-kwan HO
Steve GRIFFIN (SGN) MTR Corporation Limited

In Attendance : Kwok-hung LI (KkHL) Civil Engineering and Development
Department
Francis LEUNG (FLG) Architectural Services Department
(*for Ms Sheron LI*)
Christopher TO (CT) Executive Director
Alex LEUNG (AL) Senior Manager (Council Services) 1
Shuk-ming KWOK (SMK) Assistant Manager (Council
Services) 3
Priscilla NG (PN) Assistant Officer

Apologies : Thomas HO (TH)
Wai-wah HO (WWH)
Wo-hei LAM (WHL)
Kam-hung YU (KHY)
Duncan PESCOD (DWP)
Irene CHENG (ICG) Housing Authority
Alex KWAN (AKN) Association of Consulting Engineers
of Hong Kong
Ming-wai LAU (MWL) Chinese Estates Holdings Limited
Sheron LI (SNL) Architectural Services Department
Sing-mo HO (SMH) CLP Power Ltd
Andrew SIMPSON (ASN) Hong Kong Polytechnic University

PROGRESS REPORT

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4.0 Opening of the meeting

The Chairman welcomed Members to join the meeting.

4.1 Confirmation of the Progress Report of the Committee Meeting No. 003/11

Members took note of the Paper CIC/PCM/R/003/11 and confirmed the progress report of the last meeting held on Wednesday, 7 September 2011.

Regarding paragraph 4 of item 3.4, DT clarified that the position of the Government on the drafting of Guidelines. DEVB considered “Guidelines” should be a type of document universally applicable to both public and private sectors, however, they found that the draft Guidelines prepared by the Task Group (TG) on the Selection of Consultants (SCT) was difficult to be adopted or followed by the Government. DEVB was willing to contribute if the document would be issued in the form of “Reference Document”. Further details refer to item 4.5 of this Progress Report.

4.2 Matters Arising from the Previous Meeting

(a) Item 3.2 – Matters Arising from the Previous Meeting (Agenda item 2.9 – Potentiality of developing Guidelines on Interim Payment Schedule (IPS) / Milestone Payment (MS)

SGN, Chairperson of Task Force (TF) on Contract Price Fluctuation System (CPFS) had collected views from TF Members. Further details were discussed under agenda item 4.6 (b).

(b) Item 3.7 – Issues on Risk Sharing

SGN, Chairperson of TF-CPFS had collected views from TF Members. Further details were discussed under agenda item 4.6 (a).

(c) Item 3.9 (Page C12) – Issues for Deliberations

Paper on Electronic Tendering had been prepared by the CIC Secretariat. Further details were discussed under agenda item 4.7.

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4.3 Progress Report of Meeting No. 002/11 of the Task Force on Competition Law

Members took note of the Paper CIC/PCM/P/017/11 regarding the Progress Report of Meeting No. 002/11 of the Task Force (TF) on Competition Law (CLW).

Members were advised that the views and concerns of TF Members were consolidated and discussed in Meeting No. 002/11 of the TF held on 27 September 2011. Such views and concerns would be further discussed with consideration to the latest proposed amendments by the Government to the Competition Bill in the upcoming TF Meeting scheduled on 29 November 2011. After that, the TF would prepare summary of views and concerns on the Competition Bills, and would submit them to the relevant Bills Committee of the LegCo after clearance by the Com-PCM.

4.4 Progress Reports of Meeting No. 002/11 & Meeting No. 003/10 of the Task Force on NEC3 Collaborative Contracts

(a) Progress of the Task Force

Members took note of the Papers CIC/PCM/P/018/11 and CIC/PCM/P/019/11 regarding the Progress Reports of Meeting No. 002/11 & Meeting No. 003/10 of the Task Force (TF) on NEC3 Collaborative Contracts (NEC) respectively.

Members were advised that TF Members shared common pitfalls and solutions, and their local experience in the application of NEC in previous TF Meetings. Further sharing of local and overseas experience would be continued in the upcoming TF Meeting scheduled on 6 December 2011.

(b) Technical Forum on NEC3 Collaborative Contracts 2012

Members were advised that Technical Forum on NEC3 Collaborative Contracts organised by the CIC and co-organised by the NEC Asia-Pacific Users' Group would be held on 7 March 2012. The main purpose of the Forum was to provide more information on NEC to the construction industry practitioners and share the practical experience in its application. The Forum would also serve

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as a platform for stakeholders to express their views and suggestions in the application of NEC3 collaborative contracts in the local construction industry. Members supported the organisation of the Forum and the CIC Secretariat would continue to follow up with its arrangement.

(c) **Letter from the Hong Kong Federation of Electrical and Mechanical Contractors Limited (HKFEMC)**

Members took note of the Paper CIC/PCM/P/025/11 regarding the letter from the Hong Kong Federation of Electrical and Mechanical Contractors Limited (HKFEMC) dated 23 Sept 2011 titled “Task Force on NEC Collaboration Contracts” and were briefed on their initiative to join the TF.

Members generally supported HKFEMC to join the TF in view of their active participation and possible contributions which would be beneficial to the work of the TF. CIC Secretariat would invite HKFEMC to nominate a representative to join the TF.

**CIC
Secretariat**

4.5 Progress Report of Meeting No. 001/11 of the Task Force on the Selection of Consultants and Contractors

(a) **Progress of the Task Force**

Members took note of the Paper CIC/PCM/P/020/11 regarding the Progress Report of Meeting No. 001/11 of the Task Force (TF) on the Selection of Consultants and Contractors (SCC).

Members were advised that the drafting of Guidelines on the Selection of Consultants was in progress. As the document was a preliminary draft, substantial edition and comprehensive review by the TG and TF would be required before submitting it to the Com-PCM for comment.

(b) **Categorisation of the document**

Members were informed that the TF would like to seek the directive on either issuing the document as a “Guidelines” in accordance to the Terms of Reference or as a “Reference Document” in view of different concerns of the Members of TF and TG on the categorisation of document.

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In connection with the above, CIC Secretariat advised that the categorisation of documents issued by the CIC was currently under review and it would be further discussed in the upcoming Strategic Planning Steering Committee scheduled at the end of November 2011. It was anticipated that the re-categorisation exercise might resolve the dilemma encountered by the TF and TG. CIC Secretariat would keep Members informed of the latest development of the re-categorisation exercise.

**CIC
Secretariat**

4.6 Report of the Task Force on Contract Price Fluctuation System

(a) Progress of the Task Force

Members were advised that the Guidelines on Contract Price Fluctuation System was approved by the Council in its meeting held on 28 October 2011. The translation of Guidelines to Chinese version was in progress. A seminar would be held in March 2012 for the promotion of the Guidelines.

(b) Production of Guidelines on “Interim Payment Schedules and Milestone Payment Procedures”

Members took note of the Paper CIC/PCM/P/021/11 regarding the views of TF Members on the production of Guidelines on “Interim Payment Schedules and Milestone Payment Procedures”.

SGN reported that the TF Members generally not supported to draft Guidelines on it in view of the well functioning of various payment schemes in place across the industry and the lack of consensus among different interest groups.

As there was a lack of appetite on this topic, Com-PCM Members agreed to drop it.

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

Members took note of the Paper CIC/PCM/P/021/11 regarding the views of TF Members for the TF to explore “Issues of Risk Sharing”.

SGN reported that majority of the TF Members were interested to explore the issues on risk sharing and introduced the proposed topics briefly.

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Members generally agreed to narrow down the topics to one or two areas for further review and investigation by the TF.

Since the exploration of issues on risk sharing might fall outside the Terms of Reference (ToR) of the TF and the current TF Members might not have expertise in those areas, the CIC Secretariat would draft the revised ToR and Membership list as appropriate, and circulate them for Com-PCM Members' comment afterwards.

**CIC
Secretariat**

4.7 Electronic Tendering

Members took note of the Paper CIC/PCM/P/022/11 regarding Electronic Tendering and were briefed on the electronic tendering systems of DEVB, CLP and MTRCL.

SGN clarified that except civil contracts, vast majority of MTR projects were tendered through E-tendering System.

Members deliberated that the major obstacles of implementing electronic tendering in the construction industry of Hong Kong comprised of two aspects:

(a) Mindset

Contractors lacked confidence in adopting the new tendering approach and were reluctant to adopt electronic tendering.

(b) Technical and resources problems

Contractors, particularly Small and Medium Enterprises (SMEs), might encounter technical problems or lack resources in adopting electronic tendering.

With a view to help the industry to understand and adopt electronic tendering, it was suggested to form a group on electronic tendering to produce guidelines or factsheet to guide the industry. Initially, CLP and MTRCL were requested to share their electronic tendering experience and practices, and report such in next Com-PCM meeting.

**CLP &
MTRCL**

In response to the possibility of provision of funding to SMEs to cater for electronic tendering like Singapore, DT advised that DEVB would meet the contractors' associations next month and would reassess the situation of Hong Kong to determine whether they could take any step forward in this regard.

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4.8 Year Plan for 2011/2012 – Progress Review

AL introduced the paper CIC/PCM/P/023/11 regarding the progress review of the Year Plan 2011/2012 for the Committee on Procurement. Members noted and confirmed the year plan.

Chairman thanked Members for their contributions to the Com-PCM in 2011.

4.9 Meeting Schedule for 2012

Members took note of the Paper CIC/PCM/P/024/11 regarding the meeting schedule of 2012.

4.10 Any Other Business

(a) Various CIC matters from the Council

Regarding the feedbacks from the Council, Chairman reiterated that the Com-PCM played an important role in the construction industry. He shared the three commitments of the Secretary for Development, Mrs. Carrie LAM, on promoting a caring, harmonious and progressive culture in Hong Kong's construction industry, and suggested areas which the Com-PCM should take lead to help the construction industry, including ensuring security of payment along the supply chain of the industry and promoting collaborative approach in the industry.

(b) Procurement Factsheet

The possible production of procurement factsheet was discussed. The factsheet(s) would stipulate good approach / practice agreed by the Com-PCM to provide quick reference or information to the industry stakeholders. Information shared at Com-PCM meeting, such as the one on electronic tendering could be summarized in an one-page factsheet.

Furthermore, Members were invited to contribute any useful topics or information for the production of factsheet(s).

The CIC Secretariat would investigate the feasibility and details of uploading the factsheet(s) to the CIC website for the sharing with industry stakeholders. Members also

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suggested that it would be better to gather information on several topics before formal launching.

As a start, the CIC Secretariat would prepare a template of factsheet for Members to provide input and information.

**CIC
Secretariat
& Members**

4.11 Next Meeting

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

There being no further business, the meeting adjourned at 16:00.

CIC Secretariat
November 2011