

Construction Industry Council

Committee on Procurement

The Meeting No. 003/09 of the Committee on Procurement was held on Thursday, 9 July 2009 at 2:30 pm at Room 1201, Murray Building, Garden Road, Central.

Present	: Russell BLACK	(RB)	Chairman
	Tat-tong CHEUNG	(TTC)	
	James CHIU	(JC)	
	Thomas HO	(TH)	
	Wo-hei LAM	(WHL)	
	Shing-see LEE	(SSL)	
	Conrad WONG	(CW)	
	Hugh WU	(HW)	
	James BLAKE	(JB)	Kowloon-Canton Railway Corporation
	Nap-ming CHAN	(NMC)	Housing Department
	Charles CHOW	(CCW)	Architectural Services Department
	Margaret COATES	(MC)	CLP Power Hong Kong Ltd.
	Ian COCKING	(IC)	Minter Ellison Lawyers
	Steve GRIFFIN	(SGN)	MTRCL
Enoch LAM	(EL)	Deputy Secretary (Works) 2 Development Bureau	
Chun-kay LAU	(CKL)	Hong Kong Federation of Electrical and Mechanical Contractors	
Wah-hoi MOK	(WHM)	Government Representative - ICAC	
In Attendance :	Christopher TO	(CT)	Executive Director
	Alex LEUNG	(AL)	Senior Manager (Council Services) 1
	Raymond KWOK	(RKK)	Manager (Council Services) 3
	CHONG Kwok-kee	(KwKC)	Assistant Secretary (Works Policies) 13 Development Bureau
LEE Wing-gook (for agenda item 3.3)	(WGL)	Housing Department	

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(for discussion)

	Alan HUI (for agenda item 3.3)	(AH)	Housing Department
	CHUNG K W (for agenda item 3.4)	(KwCG)	Housing Department
	Daniel CHAN (for agenda item 3.4)	(DLC)	Housing Department
Apologies	: Francis BONG	(FB)	
	Andrew CHAN	(AC)	
	Teresa CHENG	(TC)	
	Billy WONG	(BW)	
	Lung-hing CHEUNG	(LHC)	Construction Site Workers General Union
	Ada FUNG	(AF)	For Permanent Secretary for Transport and Housing (Housing)
	Colin JESSE	(CJ)	Evans and Pecks (HK) Ltd
	Mohan KUMARASWAMY	(MKK)	University of Hong Kong
	Edward LEE	(ELE)	Civil Engineering and Development Department
	Tak-fai LEUNG	(TFL)	Chief Assistant Secretary (Works) 7 Development Bureau

PROGRESS REPORT

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3.1 **Confirmation of the Progress Report of the Committee Meeting No. 002/09**

Members took note of the Paper CIC/PCM/R/002/09 and approved the progress report of the last meeting held on Thursday, 21 May 2009 at Murray Building.

3.2 **Matters Arising from the Previous Meeting**

- (i) Agenda item 2.3:
The Task Force on CPFS for Private Sector Construction Contracts had been established and the progress report would be discussed under agenda item 3.9.

(ii) Agenda item 2.4:

The progress on the preparation of the Guidelines on Partnering would be discussed under agenda item 3.8.

3.3 Performance-based Mechanism in Selection of Contractors

Members took note of the Paper CIC/PCM/P/008/09 which set out the background of performance-based mechanism adopted in the selection of contractors for Housing Authority's (HA) public housing projects.

Representatives of the Housing Department (HD) were invited to introduce their procurement strategy and to present the performance assessment scoring system (PASS) and the tender evaluation criteria. HD considered the PASS was an effective tool in enhancing the performance of contractors, workers and HA staff and help clarifying the requirements of HA with contractors.

Members discussed the approach taken by HA in the selection of contractors and agreed that PASS was a useful benchmarking vehicle to drive contractors for continuous improvement. However, extensive resources were required in the management of the system, and it might only be applicable to large organizations with size and business exposure comparable to HA.

Members also deliberated about the rating for technical and price factors in the assessment of tenders. It was acknowledged that different rating standards might be adopted for different types and scales of works.

3.4 Review of the Milestone Payment Arrangement in the Pilot Building Contracts by Housing Authority

Members took note of the Paper CIC/PCM/P/009/09. HA had carried out two pilot projects in 1998 for the implementation of milestone payment arrangement. Upon completion, HD reviewed the projects and noticed that the benefits of the system might not be achieved as originally

planned. Representatives of HD were invited to present on the findings acquired by HA under the trial projects.

According to HD, the reduction in the number of milestones was not favoured by the contractors as that would be detrimental to their cash flow. However, the introduction of more milestones would demand significant resources during the pre-contract stage for the formulation of milestone schedules. HD also noted milestone payment approach did not lower the tender price and could only secure slight savings in resources for assessing interim payments. They also recognized there might be a mismatch between the pre-determined milestones and the actual works progress, which would in turn affecting the cash flow of the contractors.

From the experience of the trial projects, HD concluded that milestone payment was not suitable for traditional design-tender-construct public building contracts. However, alternative procurement modes like design and build contract might be considered for such application.

Members clarified with HD that for the system tested by HA in the pilot projects, the contractor got paid for a particular milestone only if it had completed the milestone as required under the contract. It was different from the system of milestone payment together with interim payment schedules which had been widely adopted in MTRCL and KCRC projects.

3.5 The Experience of the MTRCL in the Management of Milestone Payment and Selection of Consultants and Contractors

Members took note of Paper CIC/PCM/P/010/09 and SGN was invited to present on the experience of the MTRCL.

SGN highlighted the process of MTRCL in the selection of contractors and consultants. It was noted that internal transparency would be maintained in the assessment and approval process, and that two independent teams would be

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established to separately evaluate the technical and financial aspects of tenders. After the award of consultancies, a debriefing session would be offered to the unsuccessful bidders.

SGN also illustrated the mechanism of Milestone and Interim Payment Schedule (IPS) which had been used by MTRCL since 1979. Under the system, the contractor would be paid between milestones according to the IPS irrespective of the actual progress of works. However if the contractor failed to achieve a pre-determined milestone within a cost centre, all payments within that individual cost centre would be suspended until the completion of that particular milestone. Members noted that the IPS would be prepared by the contractor, which would be reviewed and endorsed by MTRCL, and should have taken into account their cash flow requirements including the delivery of materials on site. The employer would have general protection from any advance payment by bonds, guarantees, retention monies and other terms of the contract.

Members discussed the MTRCL's approach. It was noted that resetting mechanism of IPS would be available through negotiation.

(WGL, AH, KwCG and DLC of HD left the meeting at 4:10 pm)

3.6 The Experience of the Development Bureau in the Management of Milestone Payment and Selection of Consultants and Contractors

EL briefed Members on the Paper CIC/PCM/P/011/09 for the details and experience of Government in the management of milestone payment and the selection of consultants and contractors. He stated that stage payment had been tried for design and build projects like the construction of mega drainage tunnel. CCW supplemented that the Architectural Services Department had carried out 12 design and build projects using milestone payment. It was considered to be

effective at saving resources in assessment of interim payment.

For the selection of consultants, a two-stage approach was taken by Government. Invitation for submission of expression of interest would be made at the first stage while at the second stage, the shortlisted consultants would be asked to submit technical proposals for assessment. Recently, the Government also tried a one-stage approach to speed up the award for consultancies of relatively lower value and lower complexity.

Regarding the selection of contractors, reference would be made on contractor's past experience and performance. The rating for technical and financial aspects would be varied depending on the specific nature of each project. The approval authority for award of contracts would depend on the value of the projects.

Members noted the presentations delivered by HD, MTRCL and Development Bureau and agreed that the Com-PCM and its Task Forces should identify the common principles among the three approaches for the preparation of guidelines, if appropriate.

(CW left the meeting at 4:30 p.m.)

3.7 Proposed Terms of Reference (TOR) and Membership Composition for the Task Force on Selection of Consultants and Contractors

The CIC Secretariat introduced the Paper CIC/PCM/P/012/09 which explained the rationale for the establishment of the Task Force on Selection of Consultants and Contractors, plus the proposed Terms of Reference and Membership List of it.

Members agreed to adopt the proposed Terms of Reference subject to amending it as follows:

“4. To deliberate and consider ~~issuing~~ drafting guidelines on recommended approaches.....”

About the Membership List, TTC proposed to invite the participation of the Association of Consultant Quantity Surveyors of Hong Kong. WHM on behalf of ICAC expressed their interest in joining the Task Force. EL proposed that Civil Engineering and Development Department and Highways Department should also be invited to join the Task Force.

(Post Meeting Note: Invitation letters to Members of Com-PCM and relevant organizations for joining the Task Force were issued to Members on 10 & 13 July 2009 respectively.)

3.8 Summary Report of the Working Group on the Preparation of Guidelines on Partnering

IC on behalf of CJ presented the Paper CIC/PCM/P/013/09 on the progress of the preparation of the Guidelines on partnering. The Working Group held a meeting on 6 July 2009 and identified areas for amendment and fine-tuning of the Guidelines. The finalized draft was targeted to be completed by the end of July or in early August. IC welcomed Members to send their comments, if any, on or before 20 July 2009 for the Working Group to incorporate into the draft. The draft would be issued to the REDA for initial review before publication.

3.9 Progress Report of Meeting No. 001/09 of the Task Force on CPFS for Private Sector Construction Contracts

SGN briefed Members on the Paper CIC/PCM/P/014/09 regarding the progress of the first meeting of the Task Force held on 30 June 2009. Members took note of the revised Terms of Reference with incorporation of missions for Interim Payment Schedule (IPS)/ Milestone Payment and the Membership List. SGN highlighted that the Task Force had commenced taking stock of the experience in the practice of CPFS and had also initiated discussions on milestone payment.

3.10 Year Plan 2009 – Progress Review

The CIC Secretariat introduced the Paper CIC/PCM/P/015/09. The finalized version of the Year Plan 2009 (prepared on 2 July 2009) was endorsed and used as a basis for the review of progress. Member noted that all of the prioritized tasks as identified under the year plan 2009 were able to be kept in-line with the scheduled programme.

3.11 Any Other Business

Nil.

3.12 Next Meeting

21 October 2009 (Wednesday) at 2:30pm at Room 1201 of **All to note** Murray Building.

There being no further business, the meeting adjourned at 4:45 pm.

Remarks: The mentioned papers discussed in the meeting of the Committee on Procurement can be made available to the Council Members from the CIC Secretariat upon request.

CIC Secretariat
July 2009