

Construction Industry Council

Committee on Construction Procurement

Meeting No. 001/18 of the Committee on Construction Procurement was held on Monday, 14 May 2018 at 2:30pm at the Boardroom, CIC Headquarters, 38/F, COS Centre, 58 Tsun Yip Street, Kwun Tong, Kowloon.

Present	:	Stephen LAI	(SLI)	Chairperson
		Emily CHAN	(EC)	for Francis LEUNG
				of Development Bureau
		Stanley SIU	(SS)	for WONG Mung-wan
				of Hong Kong Housing Authority
		Raymond AU	(RA)	
		CHAN Chi-chiu	(CCC)	
		CHAN Kim-kwong	(KCCN)	
		CHOW Ping-wai	(CPW)	
		Rita CHUNG	(RC)	
		Danny HUNG	(CSH)	
		Robert LAM	(PHL)	
		Ricky LEUNG	(RL)	
		Rocky POON	(LKP)	
	Eliza WONG	(EWYL)		
	Simon WONG	(SWHW)		
	Dick KWOK	(DkK)	Chairperson of Task Force on RMAA Procurement	
	TSE Chun-yuen	(CYT)	Chairperson of Task Force on Enhancements to Subcontractor Registration Scheme	
In Attendance	:	CHAN Ka-kui	(KKCh)	CIC Chairman
		Albert CHENG	(CTN)	Executive Director
		Henry FUNG	(HF)	Director - Industry Development
		LAI Chi-wai	(CWL)	Senior Manager - Registration Services
		Iris NG	(IN)	Government Seconded - Construction Procurement
		Rocky CHO	(RYC)	Manager - Corporate Secretariat
		Thomas NG^		The University of Hong Kong
Apologies	:	Francis LEUNG	(FLG)	for Permanent Secretary for Development (Works)
		WONG Mung-wan	(MWW)	for Permanent Secretary for Transport and Housing (Housing)

^ for agenda item 1.3 only

MINUTES

Action

The Chairperson welcomed the following Members joining the Committee meeting for the first time:

Mr. Raymond AU (MTRC);

Mr. Ricky LEUNG (Airport Authority);

Mr. CHAN Kim-kwong (Hong Kong Construction Subcontractor Association);

Ir Rocky POON (Hong Kong Federation of Electrical and Mechanical Contractors);

Mr. CHOW Ping-wai (Hong Kong Construction Employees General Union);

Ms. Rita CHUNG (Hong Kong Housing Society); and

Mr. Simon WONG

The CIC Chairman briefed Members that as approved by the Council, Members' appointment of the Industry Development Committees had been revamped to better reflect the Council's composition of the various stakeholder categories. Committee composition shall mirror that of the Council and consist of a Chairperson, Public Officers, members from various backgrounds including Employers, Professional and Consultants, Contractors, Subcontractors, Materials and Equipment Suppliers, Training Institutes, Trade Unions and persons considered suitable by the Council.

Specified bodies from the respective sectors were invited to nominate candidates for appointment to the Committee. Members were appointed with consideration of their knowledge and expertise in the relevant field as well as their commitment to the work of the Committee. Most importantly, Members were expected to advocate for any recommendations or initiatives of the Committee and promulgate such for implementation in the industry.

Task Force Chairpersons would continue to attend committee meetings to update Members on the progress of the Task Forces.

1.3 Progress Update on the Research entitled “A Roadmap to Enhance the Subcontractor Management Mechanism in Hong Kong”

CWL gave a brief history of the SRS for the benefit of the new Committee Members. Since the CIC took ownership of the SRS in 2010, a number of enhancements had been made such as to strengthen the regulatory actions under the SRS and to open up the

scheme for participation by smaller companies.

The participation in SRS had long relied on employers' contract requirements but it was considered that mandatory registration was the way forward for the long term development of the SRS.

HKU was commissioned by the CIC in 2017 to undertake a study to devise appropriate schemes and a roadmap for eventual implementation of mandatory registration.

The following areas were being examined in the study:

- Criteria and entry barrier to be considered for registration;
- Collection and dissemination of subcontractor's performance data under the SRS; and
- Incentives for adopting SRS in the private sector.

A number of interviews had been conducted with industry stakeholders and the initial views on the key dimensions of the registration criteria were as follows:

- Safety performance and qualified safety personnel;
- Expertise and continuous professional development (CPD) requirements of the key management and site supervisory team;
- Track record and financial strength; and
- A proportion of staff being employed on monthly wages with a view to building a stable workforce.

In response to CTN's query, CWL replied that SRS would be opened to registration by contractors of all tiers based on the same key dimensions of registration criteria.

KKCN commented that management staff and apprentices could be employed on monthly wages, but some workers would prefer the flexibility of casual employment on daily wages. The study should carefully consider the practice of the industry when determining an appropriate proportion of monthly wage staff requirement.

LKP commented that subcontracting had been an established practice and had its value in providing flexibility to the resources of the industry. Future development of the SRS should aim to regulate these practices without undermining the flexibility.

KKCN further commented that due to the limited length of subcontracts, it was often impractical to employ workers on a monthly basis.

CYT echoed that while his company had employed workers on a long-term basis and even offered permanent employment, the workers still preferred daily wages arrangement without being tied down to a single employer. He also commented that the requirement

of past performance and financial strength should not limit newly formed companies entering the market.

CPW commented that most workers would welcome a stable income in the form of monthly wages if it was comparable to daily wages. The employment market was often linked to the supply and demand of the overall construction market and the form of employment would be dictated by market forces.

In response to CPW's query, CWL replied that the exact threshold value for the proposed criteria, such as that of financial strength, was still being considered having regard to the opinions of industry stakeholders and actual market situation. An appropriate value would be proposed for the industry's further deliberation when the study has thoroughly examined the issues.

The CIC Chairman remarked that the inefficiencies in some subcontracting practices and the prevalence of casual employment on daily wages had been the major cause of the lack of technological advances, aging workforce and rising construction cost in the construction industry. The many millions spent each year on training by the CIC would be wasted if the graduates would not remain in the construction industry due to job insecurity. A stable income was essential to boosting the retention rate of workers in the industry.

He welcomed KKC�'s support to employ graduates under apprenticeship on monthly wages which should help towards improving the high dropout rate in the first year after graduation as revealed by a recent survey.

Acknowledging the volatility of the subcontracting business, the proportion of monthly wage staff required for registration would start at a moderate level and the requirement should increase in a gradually as the SRS matures.

High construction cost could be attributable to inflated wages caused by the lack of constant supply of construction labour. If the majority of the 5000 odd annual HKIC graduates were to remain in the industry, much of the labour shortage problem would be alleviated.

SRS had been a relative success over the past decade, but it is now time to move to the next phase of mandatory registration in order for the SRS to remain a valuable proposition to employers and main contractors. For the subcontractor register to be well recognised and respected by the industry, the registration criteria would require significant uplifting from the current low entry barrier. Poor-performing subcontractors should eventually be eliminated from the market through the enhanced SRS.

KKC� responded that labour shortages were partly due to the questionable work ethic of some workers. He also agreed that speculative "shell subcontractors" that do not add value to the

construction project should be eliminated.

In response to RL's query, CWL replied that while the SRS would cover all tiers of subcontractors, the study being conducted by HKU would attempt to strike a balance in the registration criteria so that subcontractors could be reasonably included in the SRS while maintaining an acceptable level of standard of the registered subcontractors.

CCC supplemented that there were no tier division under the current SRS framework.

CSH commented that one of the characteristics of subcontracting that gave it its flexibility was that subcontractors could operate under different tiers in different projects. It would be unnecessary to assign a tier to subcontractors under the SRS as long as they fulfil the registration requirements.

The CIC Chairman supplemented that the CIC as a principle did not condone non-value adding multi-layer subcontracting. The SRS should aim to regulate the actively operating subcontractors irrespective of their tiers, which had long been lacking in the construction industry.

CSH expressed his support to the proposed enhancements to the SRS. He commented that the enhancements, including mandatory registration, should be implemented promptly, and that the revamped registration system should be straightforward without excessive administrative burden.

The CIC Chairman commented that there were two routes towards mandatory registration: one being through the enactment of an ordinance similar to Construction Workers Registration; another being through contract provisions imposed by employers. Either way, the SRS needs to be robust for it to be accepted by the industry.

KKCN commented that the study should consider the characteristics and the custom practices of individual trades to avoid over-generalising the registration criteria.

RA commented that the MTRC dis-incentivise multi-layer subcontracting by contractual means where subcontracts beyond the first tier would not be recognised, such that claims made on the grounds of lower tier subcontractors would not be considered.

CWL briefed Members of another proposed enhancement to introduce a premium register, recognising subcontractors of exceptional performance.

KKCN commented that there would be limited value to the premium register as most active main contractors and employers would already possess a good understanding of the capability and performance level of subcontractors.

CYT commented that main contractors would knowingly engage subcontractors of questionable quality for lower tender prices. The SRS should aim to limit the tendering prospect of repeated offenders.

EWYL commented that the SRS would need a fair but strict mechanism to remove poor-performing subcontractors from the register.

CCC supplemented that the scope for regulatory actions could be extended to incorporate other aspects of subcontractor performance.

CWL concluded that HKU would consider and consolidate the views and opinions raised by Members and through interviews with stakeholders and finalise the recommendations for Members further consideration in around September 2018.

1.4 3-year Strategic Plan 2019-2021 and Business Plan 2019 of the Committee on Construction Procurement (including the Subcontractor Registration Scheme)

HF presented the Paper CIC/CPT/P/001/18 with a PowerPoint presentation.

As per the discussion at the Council Members Brainstorming Session held on 14 April 2018, the 3-year strategic plan 2019-2021 and business plan 2019 of the Com-CPT would be based on the vision of building a fair and competitive business environment for the construction industry with target accomplishments in the following areas:

To build a healthy construction market (reasonable contract price and construction period)

The CIC would organise seminars for employers of both the public and private sector to share information on upcoming tenders in the near to mid-term future with consultants and contractors. Information would be provided on an informal basis and would not be bound to any future contracts. It is hoped that information such as the scope of the tender or the requirements of any prequalification would be made available. In return, employers could receive initial feedbacks to better devise their tendering strategies.

To promulgate the fair and efficient allocation of contract risks

The CIC would commission a study with emphasis on the cost benefits, specifically the life-cycle cost of a project when risks are allocated optimally. It is believed that employers, especially those in the private sector, would be incentivised to adopt equitable risk sharing practices if supported by empirical data on cost savings.

To foster a collaborative culture

The CIC would organise regular partnering workshops for industry stakeholders. Partnering workshops are conducted under NEC contracts but by bringing it to other stakeholders, the scope for appreciating the value of collaboration can be widened beyond NEC project participants.

To prepare the industry for the enactment of the Security of Payment Legislation

The CIC would raise awareness of SoP among the construction industry via seminars and workshops. In particular, the parties' rights and obligations under SoP. The CIC could also offer practical guidance for SMEs when dealing with adjudications. Such guidance could be in the form of reference materials and fact sheets.

KKCN agreed that SoP would be an important topic for the construction industry and SMEs in particular would welcome its enactment in the near future.

[LKP left the meeting at this juncture.]

After much deliberation, Members endorsed the 3-year strategic plan and business plan of the Com-CPT.

CTN suggested and Members agreed that of the proposed target areas, the issue of reasonable contract period was a root cause to other industry problems such as safety and quality and should be tackled with priority.

Subcontractor Registration Scheme

CWL presented the Paper CIC/CPT/P/002/18.

The main strategic plan of the SRS involved the enhancement to the current SRS framework which was covered in detail under agenda item 1.3. Other initiatives included the revamping of the IT system for SRS and comprehensive services to registered subcontractors such as promoting continuous learning, skills and experience sharing and introduction to the latest innovative technologies in construction.

Strengthening of manpower by the addition of one manager and one officer with technical background under the SRS team from 2019 was noted in anticipation of the enhanced SRS with greater technical complexities on registration requirements, development of IT system and related operational procedures as well as provision of new services for registered subcontractors.

In response to CPW's query, CWL replied that according to data from the Census and Statistics Department, there were around 20,000 establishments across the construction industry and around 5,800 companies registered under the SRS. CPW commented that going forward, the SRS would need to establish reasonable registration

criteria to ensure the quality and performance of the registered subcontractors before chasing after the unregistered ones.

Members endorsed the 3-year strategic plan and business plan of the SRS without further comments.

[The CIC Chairman left the meeting at this juncture.]

1.1 Confirmation of the Minutes of Meeting No. 004/17 of the Committee on Construction Procurement

Members took note of the Paper CIC/CPT/R/004/17 and confirmed the Minutes of Meeting No. 004/17 of the Com-CPT held on Thursday, 14 December 2017.

1.2 Matters Arising from the Previous Meeting

RYC updated Members on the following matters arising from the previous meeting:

Item 4.2(a) - Consultancy Report - A Study on the Risk Sharing Pattern in the Construction Projects in Hong Kong

The proposal to set up a Task Force to examine the issue would be discussed under agenda item 1.7.

Item 4.2(d) - Updates on the status of research initiatives under CIC's research fund

Framework of the CIC's research fund was being revamped to introduce additional funding schemes to attract more industry participation and practical application of research outcomes. R&D Department would present the revised research fund framework to the committee and invite suggestions on research areas at the next Com-CPT meeting.

In response to the Chairperson's query, RYC replied that there was no research proposal / fund application on procurement topics received in the past year.

1.5 Update on Subcontractor Registration Scheme (SRS) Operations

CWL briefed Members on the Paper CIC/CPT/P/003/18 on the latest status of SRS operations.

As of April 2018, there were 5,891 companies registered under the SRS. This indicated a steady increase of around 132 Registered Subcontractors compared to that of the last report in December 2017. A total of 118 regulatory actions had been taken against subcontractors mainly for late payments of workers' wages, MPF

contributions and contraventions of safety regulations involving fatality.

The membership list for the new term of the Management Committee (MC) of the SRS was approved by the Council at its meeting held on 27 April 2018. Ir CHAN Chi-chiu was appointed as the Chairman of the MC with representatives from different sectors of the approved composition appointed as members. The Chairman and members of the MC were appointed for a term of two years beginning 16 July 2018.

A number of events were organised and planned for registered subcontractors throughout 2018 under the theme of technovation covering the hot topics of BIM, site safety, sustainable construction and innovative technology application.

[EWYL left the meeting at this juncture.]

1.6 Progress Update of the Task Force on Selection of Contractors

PHL updated Members on the latest progress of the Task Force.

The Task Force had examined a number of issues related to the best practices of selecting contractors including the types of contracts, tender documents, types of tender and tender assessment.

The Task Force felt it was not easy to consolidate the high-level concepts and the broad number of issues considered into easily digestible recommendations. Nonetheless, the Task Force agreed enough effort had been spent and the report drafting phase should draw to a close. The report would be sent to a few respected industry figures for peer review. Hopefully, the finalised report could be submitted for the Committee's approval at the next meeting.

The current report could serve as the foundation for further in-depth studies on the various issues examined, such as tenderer lists, preparation of tenders and reasonable contractual provisions.

1.7 Proposed Establishment of a Task Force to Address the Issue of Unfair Contract Conditions in Construction Projects

RYC presented the proposal to set up the Task Force on Reasonable Contract Period with a PowerPoint presentation.

Members of the Com-CPT deliberated on the study on risk sharing pattern in construction projects commissioned by the HKCA and agreed that a Task Force should be set up to examine the issue in more details with a view to promulgating equitable risk sharing practices in the industry.

Taking into account that the topic of "Reasonable Contract Period" would be a priority area to be tackled in the 3-year strategic plan,

time-related elements of the HKCA study had been identified as the subject of the proposed Task Force.

The scope of the Task Force would include a study to establish benchmarks for reasonable contract period and to promulgate fair and reasonable time compensation in construction contracts. The proposed deliverables would include a study report on contract period benchmarks and a good practice guide on time compensation.

Key stakeholders from related fields were proposed as members of the Task Force.

PHL commented that representatives from the engineering sector should be included in the Task Force to offer advice on the technical aspects of contract time considerations.

CSH commented that Hong Kong Housing Authority should be included in the Task Force as they were a major employer of building projects.

RA raised and Members agreed that for MTRC projects, the focus should be on superstructure developments rather than their railway civil engineering projects.

In response to RL's query, CTN replied that the Task Force should aim to establish benchmarks for reasonable contract period based on the current industry conditions and practices. Overseas practices would also be referenced where appropriate, but the unique characteristics of other markets should be put into perspective, e.g. 24-hour working and different regulations.

CSH commented that construction periods were at present highly compressed. He hoped that the Task Force could steer the industry towards more reasonable practices.

PHL remarked that it would be difficult for the study to anticipate every factor and all possible scenarios which would affect the contract period. CSH commented that the aim of the study was to establish reasonable benchmarks for the initial contract period specified. Subsequent V.O. or E.O.T. that affects the contract period should be considered separately and assessed fairly.

PHL commented that the Task Force could aim to publish shorter documents on individual topics rather than a big comprehensive document, so as to speed up the task completion.

The Chairperson suggested and Members agreed that Mr. Ricky LEUNG to be appointed as the Chairperson of the Task Force.

After much deliberation, Members approved the setting up of a Task Force on Reasonable Construction Time. The Secretariat would prepare and circulate a paper on the finalised terms of reference and membership of the Task Force for Members' approval.

[SWHW left the meeting at this juncture.]

1.8 Updated Meeting Schedule for 2018

Members took note of the Paper CIC/CPT/P/004/18 regarding the updated meeting schedule for 2018.

1.9 Any Other Business

(a) DkK updated Members on the latest progress of the Task Force on RMAA Procurement. The assignment brief for engaging a consultant for the study on RMAA procurement issues was being finalised and would be issued for tender shortly. CTN requested DkK to give a brief update to Members on the demarcation of work between URA and CIC on RMAA procurement matters at the next meeting.

DkK

(b) CTN thanked HF for his contribution in the past few months on procurement and other industry development matters. HF would leave the CIC at the end of May.

1.10 Date of Next Meeting

The next meeting would be scheduled for Friday, 27 July 2018 at 2:30pm at the Boardroom, CIC Headquarters, 38/F COS Centre, 56 Tsun Yip Street, Kwun Tong, Kowloon.

All to note

There being no further business, the meeting was adjourned at 4:40 p.m.

CIC Secretariat
May 2018