

Construction Industry Council

Committee on Procurement

Meeting No. 002/12 of the Committee on Procurement was held on Wednesday, 13 June 2012 at 2:30 pm at Meeting Room No.1, 15/F, Allied Kajima Building, 138 Gloucester Road, Wanchai, Hong Kong.

The following items have been discussed at the Com-PCM Meeting No. 002/12:

Agenda Item	Paper	Major Resolutions/ Progress Highlights
2.1	CIC/PCM/R/001/12	Confirmation of the Progress Report Members confirmed the Progress Report of Meeting No. 001/12 held on 16 April 2012.
2.2	CIC/PCM/R/001/12	Matters Arising from the Previous Meeting <u>Item 1.5 – Concerns on NEC Sub-Contracting Arrangement</u> Task Force on NEC3 Collaborative Contracts (TF-NEC) deliberated the issues on NEC sub-contracting arrangement at its meeting held on 7 June 2012. Further details were discussed under agenda item 2.4. <u>Item 1.7(b) – Issues on Risk Sharing</u> After reviewing the various risk sharing issues raised by Members, Chairman of the Task Force on Contract Price Fluctuation System (TF-CPFS) proposed to form a new Task Force on Review of Employer-Procured Insurance Policies in Construction Contracts. Details were discussed under agenda item 2.6. <u>Item 1.7 – Issues on Indices and Worker’s Wages</u> It was reported that TF-CPFS had previously deliberated the issue on indices before finalisation of the Guidelines on Contract Price Fluctuation System.

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		<p>The issue on worker's wages was referred to the Committee on Subcontracting (Com-SBC) which discussed the issue at its meeting held on 25 April 2012. Members noted Com-SBC's decision to publish a poster with key messages to remind workers on securing their rewards and legitimate rights.</p>
2.3	Verbal Report	<p>Report of the Task Force on Competition Law</p> <p>Chairman of the Task Force on Competition Law (TF-CLW) gave an update on the status of the Competition Bill's legislative process. It was reported that the Competition Bill had received its Second Reading at the Legislative Council (LegCo) meeting held on 6 June and as at 13 June 2012, the Committee of the whole LegCo was considering the amendments to the Bill at the Committee Stage. <i>(Post meeting note: The Competition Bill passed its Third Reading at the LegCo meeting held on 14 June 2012.)</i></p> <p>The summary of views and concerns of the Construction Industry was received by the Bills Committee on Competition Bill and registered as Paper No. CB(1)1577/11-12(01) in LegCo. TF-CLW and the Secretariat would follow-up on the status of LegCo's responses to the views and concerns raised by CIC.</p> <p>TF-CLW proposed to organise a Technical Forum on Competition Law tentatively in November 2012 to enhance industry practitioners' understanding on the Competition Law. The Forum would also aim to highlight the possible implications of the Competition Law to the local Small and Medium Enterprises (SMEs).</p>
2.4	Verbal Report	<p>Report of the Task Force on NEC3 Collaborative Contracts</p> <p>At the meeting of TF-NEC held on 7 June 2012, Mr Keith KEOWN presented his Society of Construction Law Hong Kong (SCLHK) award-winning paper entitled "Is Hong Kong Ready for NEC?". In the presentation, Mr. KEOWN shared with TF-NEC his UK experience. He highlighted several key advantages and disadvantages of the NEC and outlined a number of measures that would be required to make NEC work in Hong Kong.</p>

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		<p>The issues on NEC subcontracting arrangement were also deliberated at the said TF-NEC meeting. It was reported that under the NEC Core Clauses, the Contractor is required to submit the proposed conditions of contract for each sub-contract to the Project Manager (PM) for acceptance unless an NEC contract is proposed or the PM has agreed that no submission is required. TF-NEC shared the experience of DSD's Fuk Man Road Contract where the Contractor sought PM's approval to adopt a non-NEC form of sub-contract.</p>
2.5	Verbal Report	<p>Report of the Task Force on the Selection of Consultants and Contractors</p> <p>(a) <u>Progress of the Task Group on the Selection of Consultants</u> Drafting of Guidelines on the Selection of Consultants was in progress. Revised drafts taking into account Task Group Chairman's comments were received from the lead authors and were compiled into a draft document which was currently under scrutiny by an independent reviewer to ensure coherency. After receiving inputs from the reviewer, Task Group on the Selection of Consultants (TG-SCT) and Task Force on the Selection of Consultants and Contractors (TF-SCC) would review the document and undertake final editing before submitting the draft Guidelines to Com-PCM for comment.</p> <p>(b) <u>Progress of the Task Group on the Selection of Contractors (TG-SCR)</u> Drafting of Guidelines on the Selection of Contractors would commence upon finalisation of the Draft Guidelines on the Selection of Consultants.</p> <p>A request was received from the Chartered Institute of Building (CIOB) for their Council Member, Mr LAM Wai-choi, to join the TF-SCC, and it was accepted by the Com-PCM and Task Force Chairman.</p>
2.6	CIC/PCM/P/010/12	<p>Report of the Task Force on Contract Price Fluctuation System</p> <p>(a) <u>Proposed Formation of a New Task Force on Review of Employer-Procured Insurance Policies of Construction Contracts</u> TF-CPFS had completed its missions and having considered the various risk sharing</p>

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		<p>issues raised by Members, Chairman of TF-CPFS proposed to form a new Task Force on Review of Employer-Procured Insurance Policies of Construction Contracts (TF-EPI). Members agreed that a study on Employer-Procured Insurance Policies would be beneficial to the industry and supported the formation of the new Task Force. Members also endorsed the proposal for Mr. Steve GRIFFIN to chair the new TF-EPI.</p> <p>(b) <u>Proposed Terms of Reference and Membership List of the new TF-EPI</u> Members reviewed the draft Terms of Reference (ToR) of the proposed new TF-EPI. Chairman of the new TF-EPI and the CIC Secretariat would revise the draft ToR based on Members comments and prepare a proposed membership list for the new Task Force for Members' endorsement at the next Com-PCM meeting.</p>
2.7	CIC/PCM/P/011/12	<p>Procurement Factsheet</p> <p>Members reviewed the procurement factsheet template and sample prepared by the CIC Secretariat. Members supported the idea of forming a working group to gather relevant topics and prepare factsheets. It was suggested that a set of factsheets should be gathered and vetted by the Com-PCM before formal launching at the CIC website.</p>
2.8	CIC/PCM/P/012/12	<p>Presentation on DevB's Consultation Paper on "Proposed Procurement Approach to Promote Innovation and Creativity in the Delivery of Public Works Projects"</p> <p>Representative of DevB presented its Consultation Paper on "Proposed Procurement Approach to Promote Innovation and Creativity in the Delivery of Public Works Projects". Members were briefed on the background and objectives of the proposed new procurement approach. Under the new approach, DevB proposed to introduce an innovative and creativity (IC) screening stage to the existing 2-envelope/2-stage system and amend the Technical Proposal Marking Scheme to reduce the weighting on the tenderer's experience and staffing aspects and increase the weighting on IC-related aspects. DevB also shared some examples of Innovation in Construction and briefed Members on the implementation plan of the new</p>

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		procurement approach.
2.9	CIC/PCM/P/013/12	<p>Membership List of the Committee on Procurement 2012-2014</p> <p>(a) <u>Co-opted Members of Com-PCM</u> Nominations of representatives to join the Com-PCM as Co-opted Members had been received from all relevant organisations except that the Real Estate Developers Association of Hong Kong (REDA) responded they had no nomination. To enable representation of the developer sector in the Committee, Com-PCM agreed to invite and accept Mr Peter Kar-shing Cheng of New World China Land Limited to join the Committee as a Co-opted Member.</p> <p>(b) <u>Letter from Hong Kong General Building Contractors Association Ltd (HKGBCA)</u> On HKGBCA's initiative to join the Com-PCM, Members agreed that it would be valuable and more appropriate to have representative(s) from HKGBCA to join and contribute in the Task Force(s) of the Com-PCM. Currently, representative of HKGBCA is a Member of the Task Force on Competition Law.</p>
2.10	CIC/PCM/P/014/12	<p>Year Plan 2012 – 2013</p> <p>Members noted and confirmed the year plan.</p>
2.11	AOB	<p>Any Other Business</p> <p>(a) <u>Issues on Unfair Contract Terms</u> A Member raised Hong Kong Construction Association (HKCA)'s concerns on unfair terms being imposed to the Contractors in a number of construction contracts. It was suggested to gather further information from HKCA for consideration by Com-PCM and /or the Council if appropriate.</p>

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		<p>(b) <u>DevB's Brainstorming Workshop on Procurement</u> It was reported that invitation had been received from DevB for CIC to attend DevB's Brainstorming Workshop on Procurement on 3 July 2012. Chairmen of Com-PCM, TF-NEC and TF-SCC and the CIC Secretariat would attend the aforementioned Workshop.</p>