

Code of Conduct
for Members of Construction Industry Council

I. Preamble

The Construction Industry Council (CIC) is fully committed to the principle of honesty, integrity and fair play in the conduct of its business. To uphold public trust and protect public interest, it is important for all Members¹ to handle the Council's business in a just and impartial manner so that the Council's reputation will not be tarnished by dishonesty, impropriety or corruption. To this end, this Code of Conduct sets out the standard of behaviour expected of all Members.

II. General Standards

1. A Member shall ensure that his conduct would not bring the Council into disrepute.
2. A Member shall not at any time or in any respect do anything which may compromise or impair his integrity, impartiality, objectivity or ability to perform Council duties.
3. A Member shall adhere to the spirit and the letter of any rules or orders made for the Council's practices and procedures or for Members' behaviour in relation to the business of the Council.

¹ All Members include members of CIC, members/co-opted members of its Board, Committees and Sub-Committees.

III. Specific Standards

1. *Provisions of Prevention of Bribery Ordinance*

The CIC is a public body under the Prevention of Bribery Ordinance (POBO, Cap. 201). Therefore, Members are public servants governed by Section 4 of POBO (and other provisions where appropriate) and are prohibited from soliciting or accepting any advantage in connection with their Council duties. They commit an offence under POBO if they do so. *Appendix 1* provides the full text of POBO Section 4 and the legal definition of an advantage.

2. *Acceptance of Advantages*

2.1 Gifts/souvenirs presented to Members in their capacity as such

- (a) A gift/souvenir presented to a Member in his capacity as such should be regarded as a gift/souvenir to the Council (e.g. a gift/souvenir presented by the organizers to a Member invited in his capacity as such or representing the Council to officiate at ceremonies).
- (b) A Member shall follow the procedures set out in *Appendix 2* for the disposal of gifts/souvenirs received in the above circumstances.

2.2 Sponsorships offered to Members in their capacity as such

- (a) Members may be offered sponsorships in their capacity as such by persons/organizations other than the Council itself for official purposes such as attending local/overseas conferences, conventions, product trial activities, etc. Such sponsorships should be regarded as sponsorships offered to the Council and referred to the Council for consideration of acceptance.
- (b) The Council should consider whether it is appropriate to accept the offer based on the following general criteria:

- (i) acceptance of the sponsorship will benefit the Council as a whole and not bring the Council into any disrepute;
 - (ii) the sponsorship is not excessive in value or frequency;
 - (iii) the Council will not feel obliged to do something in return for the offeror; and
 - (iv) acceptance will not give rise to any actual or perceived conflict of interest (e.g. the offeror is a supplier/contractor bidding for the Council's contracts).
- (c) If the Council decides to accept the sponsorship, it should then select a suitable Member to attend the sponsored activity on its behalf.

2.3 Advantages offered to Members in their private capacity

- (a) Where a Member is offered an advantage in his private capacity, he may accept it if -
- (i) the acceptance will not affect the performance of his duties as a Member; and
 - (ii) he will not feel obliged to do something in return in connection with Council business for the offeror.
- (b) If a Member feels that he would be obliged to reciprocate an advantage by returning to the offeror a favour connected with any Council business, he should decline the offer.
- (c) When a Member is in doubt as to whether he should accept an offer of advantage, it is advisable for him to apply the "sunshine test"² and consult the Council Chairman/Secretary.

² In the sunshine test, the person concerned should ask himself if he would be happy to openly discuss with the general public what he is doing. If he feels uncomfortable about that, what he is doing is probably conflicting with the ethical standard generally expected by society.

3. *Acceptance of Entertainment*

A Member should not accept frequent or lavish entertainment from persons/organizations who/which have an interest in any matters under consideration by the Council or with whom/which he has official dealings, in order to avoid embarrassment or loss of objectivity when considering or giving his views on matters concerning these persons/organizations.

4. *Conflict of Interest*

4.1 Definition

A conflict of interest situation arises when the private interest of a Member competes or conflicts with the interest of the Council. "Private interest" includes both the financial and personal interests of Members and those of their connections, including family members, relatives, friends, clubs and societies to which they belong, as well as people to whom they owe a favour or are obligated in any way.

4.2 Managing conflict of interest

Members shall not use their official position or any information made available to them in the course of their duties to benefit themselves, their relations or any other persons with whom they have personal or social ties. They should avoid putting themselves in a position that may lead to an actual or perceived conflict of interest. Failure to avoid or declare such conflict may give rise to criticism of favouritism, abuse of authority or even allegations of corruption. In this connection, Members shall comply with the guidelines on declaration of interests in *Appendix 3* and also the CIC Paper No. CIC/030 in respect of disclosure of pecuniary interests system as endorsed on 10 September 2007.

4.3 Members bidding for the Council's contracts

As a matter of principle, Members should avoid entering into any business contract (e.g. for the supply of goods or services) with the Council in their personal capacity to prevent the public perception of Members using their capacity to obtain financial gains from the Council. Where this is unavoidable, Members shall adhere to the guidelines on managing possible conflict of interest in bidding for the Council's business contracts as set out in *Appendix 4*.

5. *Use of Confidential or Privileged Information*

- (a) A Member shall not take advantage of, or let any person or organization benefit from, the confidential or privileged information obtained in his capacity as a Member.
- (b) A Member shall not disclose any confidential or privileged information of the Council to any party unless he is authorized to do so.
- (c) When a Member is in doubt as to whether certain information may be disclosed, it is advisable for him to apply the "sunshine test" (mentioned in paragraph 2.3(c) above) and consult the Council Chairman/Secretary.

6. *Use of Public Funds*

- (a) Members shall ensure that all public funds are used in a prudent and responsible manner to safeguard public interest. They should only approve funds for any project/activity/expenditure item which falls within the ambit of the funds and can achieve the purpose of the funds.
- (b) Members shall particularly ensure that an open, fair and competitive mechanism is adopted for the procurement of goods/services and recruitment of staff for the Council.

7. Misuse of Capacity as a Member

Members shall not misuse their official capacity as such to gain benefit for themselves or others, or render favour to any person/organization. A Member who misconducts himself seriously in relation to his official duties may commit the common law offence of “misconduct in public office”.

**Construction Industry Council Secretariat
November 2007**

Extracts from the Prevention of Bribery Ordinance, Cap. 201

Section 4 - Bribery (*applicable to public councils which are public bodies under the Ordinance*)

- (1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's -
- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
 - (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
 - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

- (2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his -
- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
 - (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
 - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

- (3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.
- (4) For the purposes of subsection (3) permission shall be in writing and -
- (a) be given before the advantage is offered, solicited or accepted; or

- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.

Definition of an Advantage (Section 2)

“Advantage” means :

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e).

**Procedures for Handling Gifts/Souvenirs
Given to Members of CIC in their Official Capacity**

All gifts/souvenirs received by Members of CIC in their official capacity should be forwarded to the Secretary of the Council for disposal in the following manner:

- (a) If the gift/souvenir is of perishable nature (e.g. food or drink, etc), it may be donated to a charitable organization or, when this is not practical, shared among Council staff on a suitable occasion.
- (b) If the gift/souvenir is a useful item, it may be donated to a charitable organization.
- (c) If the gift/souvenir is suitable for display (e.g. a painting, vase, etc), it may be displayed at appropriate locations of the Council premises.
- (d) If the gift/souvenir has a value below HK\$500, it may be donated as a prize in functions organized by the Council.
- (e) If the gift/souvenir is a personal item with a value below HK\$1,000, such as a plaque or pen inscribed with the name of the recipient, it may be retained by the recipient.
- (f) If the gift/souvenir is distributed to all participants in public activities, such as a ball pen, file folder or key clasp, etc, it may be retained by the recipient.

Guidelines on Declaration of Interests by Members of CIC

General Principles

When a Member (including the Chairman) has a potential conflict of interest in a matter placed before the Council, he should make full disclosure of his interest. The basic principle to be observed is that Members' advice should be disinterested and impartial and it is the responsibility of each Member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman in case of doubt.

It is impossible to define or describe all the situations that would call for such a declaration, because each individual case differs, and because of the difficulty of catering for unusual and unforeseen circumstances. On the other hand, it is not intended that a Member should make a declaration of interest simply because the Council is considering a matter in which he has knowledge or experience.

Potential Conflict of Interest Situations

The following are potential conflict of interest situations:-

- (1) Pecuniary interests in a matter under consideration by the Council, held either by the Member or by any close relative of his. The Member himself is the best judge of who, in the particular circumstances, is a "close relative".
- (2) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is connected with, or the subject of, a matter under consideration by the Council.
- (3) Some friendships which might be so close as to warrant declaration in order to avoid the situations where an objective observer may believe that a Member's advice has been influenced by the closeness of the association.
- (4) A Member who, as a barrister, solicitor, accountant or other professional adviser, has personally or as a member of a company, advised or represented or had frequent dealings with any person or body connected with a matter under considered by the Council.

- (5) Any interest likely to lead an objective observer to believe that the Member's advice may have been motivated by personal interest rather than a duty to give impartial advice.

Declaration of Interests at Meetings

In addition to the procedures laid down in the Paper No. CIC/030, members should also follow the procedures below: -

- (1) If a Member (including the Chairman) has any direct personal or pecuniary interest in any matter under consideration by the Council, he must, as soon as practicable after he has become aware of it, disclose to the Chairman (or the Council) prior to the discussion of the item.
- (2) The Chairman (or the Council) shall decide whether the Member disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting.
- (3) If the Chairman declares an interest in a matter under consideration, the chairmanship may be temporarily taken over by a Member appointed by a majority of votes.
- (4) When a known direct pecuniary interest exists, the Secretary may withhold circulation of relevant papers to the Member concerned. Where a Member is in receipt of a paper for discussion which he knows presents a direct conflict of interest, he should immediately inform the Secretary and return the paper.
- (5) All cases of declaration of interests shall be recorded in the minutes of meeting.

**Guidelines on Managing Possible Conflict of Interest Arising from
Members Bidding for Contracts of CIC**

- (1) When the need for a business contract is discussed, Members should be asked at the outset to declare whether they or any company associated with them are interested in bidding for the contract.
- (2) The Members who have declared an interest to bid should not take part or be present at any subsequent discussions or meetings concerning the proposed contract, and should be prohibited from access to any information in relation to the contract (other than in the capacity of a bidder).
- (3) The Members who have not declared an interest to bid (and the companies concerned) should not be allowed to bid subsequently.
- (4) When a Member (or a company associated with him) has expressed an interest to bid, CIC should ascertain whether any information relating to the contract has already come to the possession of the Member in the course of his duties as a Member. If so, such information should be made available to other bidders as well to ensure a level playing field.
- (5) If a Member (or a company associated with him) has put in a bid, care should be taken to ensure that he subsequently has no access to the submitted tender documents which may contain commercially sensitive information.
- (6) Bidders' identity should be anonymised before the evaluation of bids if a Member (or a company associated with him) is one of the bidders.
- (7) If a Member (or a company associated with him) is successful in bidding for the contract, he should withdraw from all discussions relating to the contract, except when attending in the capacity of a supplier or a service-provider.
- (8) The facts of any Member being awarded a contract of the Council will be published in CIC's website and annual report for public information.