

Construction Industry Council

Committee on Construction Business Development

Meeting No. 004/22 of the Committee on Construction Business Development (the “Com-CBD”) for 2022 was held on Friday, 2 December 2022 at 10:00am at the Board Room, 29/F, Tower 2, Enterprise Square Five (MegaBox), 38 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong.

Present	: Rocky POON	(LKP)	Chairperson
	Tony HO	(HYK)	Prin AS (Works) 4 of Development Bureau
	CHAN Kim-kwong*	(KKCN)	
	Calvin CHAN	(CaC)	
	Marvin CHEN*	(MCh)	
	CHEUNG Man-tim	(MTC)	
	Ivan FU	(FI)	
	Conrad FUNG*	(KKF)	
	Thomas HO	(KnH)	
	Ricky LEUNG*	(RyL)	
	WONG Ka-lung*	(KLWg)	
	Simon WONG*	(SWHW)	
In Attendance	: Francis LEUNG	(LLK)	Team Leader (Trade & Procurement) of Development Bureau
	Joyce LI	(WML)	AS (Works Policies 4) 3 of Development Bureau
	Jim MO	(HTY)	AS (Works Policies 4) 4 of Development Bureau
	LI Shu-lam*	(LSL)	Representative of Ir Rayson WONG
	Timothy LEUNG	(TLG)	Senior Manager – Construction Business Development
	Eric JIANG	(EJ)	Manager – Mainland Liaison Services
	Hilda WONG	(HiW)	Manager – Construction Business Development
	Helena LAU*	(HLU)	Assistant Manager – Construction Business Development
	Eliz YIP	(EYP)	Assistant Manager –

			Construction Business Development
	Mandy FUNG	(FCM)	Senior Officer – Construction Business Development
	Liza LI*	(LaL)	Senior Officer – Mainland Liaison Services
Apologies	: Louis LEE	(LMHL)	
	J Scott MACKENZIE	(JSM)	
	Eddy TSANG	(TPC)	
	Rayson WONG	(RaW)	Ch Structural Engr (Development and Construction) of Housing Department
	Andrew YOUNG	(AYMC)	

* attended the meeting online via Microsoft Teams

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Prior to the commencement of the Meeting, LKP reminded Members to declare any potential or actual conflict of interest with item(s) to be discussed at the meeting. No declaration was received during the meeting.

4.1 Confirmation of the Minutes of Meeting No. 003/22

Members took note of the paper CIC/CBD/M/003/22 and confirmed the minutes of Meeting No. 003/22.

4.2 Matters Arising from the Last Meeting

- (a) Following the item 3.4 from the previous meeting regarding the Final Report of Study on Strategic Review for Uplifting Construction Capacity, the updated Final Report with incorporation of the comments and relevant measures as proposed in Policy Address 2022 was circulated to Com-CBD Members for endorsement on 9 November 2022. Members endorsed the Final Report with some textual comments. The Final Report with incorporation of the textual comments would be submitted for approval in the upcoming Council Meeting No. 006/22 scheduled for 9 December 2022.
- (b) Following the item 3.5 from the previous meeting regarding Progress Update on Task Force on Greater Bay Area.

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Updates were reported under item 4.5.

- (c) Following the item 3.6 from the previous meeting regarding the progress of Security of Payment Legislation were reported under Agenda item 4.7.
- (d) Following the item 3.6 from the previous meeting regarding the progress of Temporary Land Allocation were reported under Agenda item 4.7.
- (e) Following the item 3.6 from the previous meeting regarding the NEC adoption effectiveness, survey results collected from industry stakeholders were reported under Agenda item 4.3.

4.3 New Engineering Contract (NEC) Adoption and Effectiveness in Hong Kong Construction Industry

TLG briefed members the results of the survey conducted in mid-October 2022 to collect views from contractors and consultants on NEC adoption and effectiveness in Hong Kong Construction Industry.

Of the respondents that had used NEC, majority of them agreed that the Overall Mechanisms, the Early Warning Mechanism and the Payment Mechanism under NEC were effective. However, over half of the respondents considered the Compensation Event Handling Procedures and Sub-contracting Requirements were ineffective.

Respondents generally agreed NEC could enable more effective control of cost but not the quality. Regarding the control of time, respondents had divergent views, depending on respective project experience.

Though majority of the respondents agreed that the parties acted with mutual trust and co-operation, over 40% of them considered that the parties acted with mutual trust and co-operation with their least satisfying experience.

The results also suggested that for implementing NEC in Hong Kong, there were causes for concern and barriers to change, namely the burden in manpower, the existing culture and change in mind set, the lack of trained professionals, and limited past cases for handling disputes.

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CIC also had discussion with Hong Kong Construction Association on 29 September 2022 and 17 October 2022 and several suggestions were made, such as the removal of clause C9 (for Options C and D), including pre-bid items in tender submission, the separation of roles for project manager and principal designer in a project, and amendment made to contracts in which people costs would be allowed.

Representatives from the Development Bureau (DEVB) were invited to brief members the review on the adoption and effectiveness of NEC in public works contracts.

The current NEC adoption status in Hong Kong was introduced. Since the launch of the first NEC project in 2009, the number and value of public-sector projects procured using NEC contracts were growing significantly. By 2022 Q3, there were over 440 works contracts awarded, amounted to over HK\$250 billion.

The performance of 37 NEC Contracts completed as at end of 2019 were compared with 280 projects of similar nature and scale during the same period under General Conditions of Contract (GCC) forms. The study revealed that public-sector projects procured using NEC contracts over the past 10 years were on average completed significantly earlier than those using traditional contracts.

Looking at the relationship between the original and actual contract durations, the mean ratio for NEC projects was found to be around 10% less than the average for those procured under GCC. In contrast, it was observed that NEC made no significant difference to cost and safety performance on a project over GCC. Such results tallied with the one conducted in mid-Oct 2022 by CIC.

In addition to the quantitative analysis of the contracts, qualitative study through questionnaires, focus groups and workshop were included as well. The results collected concluded that NEC outperformed the conventional GCC contract forms, particularly in terms of building mutual trust and cooperation, cultivating a collaborative mindset, more effective risk and claims management, and better portfolio management, including cost and time predictability.

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To cater for the wider adoption of NEC form in public works projects in the coming years, DEVB had been working on strategic planning, which contained a comprehensive set of actions designed to achieve such objective, for example the establishment of NEC4 library of standard contract documents, introduction of secondary option clause X10 on information modelling in NEC4 contract, using Design Build and Operate Contract as pilot, and launching of a new NEC Suite of contract booklets.

KnH inquired the detailed reason on how NEC gave better control of time over GCC. HYK responded with the introduction of an early warning mechanism in the NEC, all parties were encouraged to identify and raise potential risks/difficulties as early as possible to go into a proactive negotiation and formulate the optimal solution according to the prescribed procedural framework and timeframes in the contract.

KKF drew attention to the fact that NEC had been widely used in civil engineering project but not building projects. HYK commented that as building projects generally involved more trades and performed in different scales, further study and exploration would be required to investigate into the different range of works and contract options of NEC for building projects.

LKP welcomed Members to share any further views on NEC adoption with DEVB through CIC.

4.4 Establishment of Task Force on Review and Enhancement of Construction Contract Terms

TLG briefed members on paper CIC/CBD/P/008/22 regarding the purpose, background, terms of reference and composition of the members for establishing Task Force on Review and Enhancement of Construction Contract Terms.

KnH inquired the detailed target construction contract and contracting parties. LKP responded that the Task Force would be looking into construction contracts commonly used in Hong Kong and different contracting parties such as private developers, contractors, sub-contractors, etc.

HYK suggested to invite members from other client bodies such as the Hong Kong Housing Society to join the Task Force as well. Members agreed to the suggestion and approved the establishment of the aforementioned Task Force.

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4.5 Progress Update on Task Force on Greater Bay Area

FI briefed Members on the progress of the Task Force on Greater Bay Area (the “GBA Task Force”). In the past few months, CIC had been working on the registration of the Mainland Liaison Office (the “Office”), Signature Course on National Affairs for the Construction Young Persons (the “Signature Course”) and GBA Hub.

EJ reported that the office registration was still under processing and the application documents were under review by the Ministry of Housing and Urban-Rural Development at the moment. DEVB had written to the Ministry of Housing and Urban-Rural Development on 21 October 2022 to support in expediting the registration process.

EJ reported that the first Signature Course was completed on 28 October 2022, while the courses in 2023 had been scheduled in March, June, September and December. The upcoming course, which commenced in January 2023, would target senior management in construction industry.

KnH inquired whether it had considered launching courses in different forms (e.g. including top management and youngsters in the same course), thereby facilitating comprehensive exchanges among people from different backgrounds. LKP responded that the operation and implementation of such pilot course would be closely monitored and subject to the experience gained and available resources, the feasibility of extending the scope of target audience could be considered in long run.

FI suggested to explore the opportunity to cooperate with Shenzhen branch campus of Tsinghua University on the Signature Course, depending on the resumption of normal traveler clearance between Hong Kong and Mainland (e.g. Guangdong province partial easing of quarantine rules for Hongkongers).

EJ briefed Members the work of plan of GBA Task Force in 2022. As at December 2022, GBA team had paid visits to over 40 companies/organisations and invited them to join the CIC Construction Innovation Expo 2022 and Greater Bay Area Construction Summit. Information collected such as company profiles and career opportunities were uploaded to the information portal of the GBA Hub website, where GBA industry stakeholders

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could connect with the right counterparts, to facilitate the identification of complementary needs, supply and demand, the construction knowledge exchange and business opportunities.

LKP suggested GBA Task Force to come up with the work of plan for the first half of 2023 to provide an overview of the specific tasks and deliverables which would be conducive to effective planning and implementation.

[CaC and KKF left the meeting at this juncture.]

4.6 ★ Tentative Meeting Schedule for 2023

This starred discussion paper * CIC/CBD/P/009/22* provided Members' information the time and venue of Com-CBD meetings in 2023.

4.7 Any Other Business

TLG briefed Members on the latest status of enactment of Security of Payment Legislation (SOPL). The legislation timeline was introduced.

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DEVB had, in collaboration with CIC, to introduce the Security of Payment Provisions (SOPP) to quasi-governmental organisations by conducting briefing sessions in the past few months. As at October 2022, a total of 90 contracts with SOPP had been tendered, with 29 of them being awarded.

FI commented SOPL had raised some concerns among the Hong Kong Institute of Architects (HKIA) and they would expect further communication with DEVB to resolve the concerns.

KnH echoed that the Hong Kong Institute of Surveyors (HKIS) and the Association of Consultant Quantity Surveyors (ACQS), in principle, supported the SOPL. However, there were comments from members on some of the details of the current proposed legislation. They would like to discuss with DEVB on further exchange of opinions on the SOPL.

KKCN also commented on the urgency of tackling the cash flow issue in the industry and urged to complete, as early as possible, the legislation for SOPL.

LKP responded DEVB and CIC would continue to engage with

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industry stakeholders to collect and examine views and suggestions, in order to provide a concrete basis on which the Government could formulate the legislative framework for SOPL.

TLG briefed Members on the latest development of the temporary land allocation (TLA), with the site readiness timeline and selected contractors introduced.

The selections of contractors were conducted by lot drawing on 30 September 2022 and 4 November 2022 respectively. A Selection Committee was formed by representatives from DEVB and 8 Construction Associations to witness the draw.

4.8 Next Meeting

The next meeting was scheduled for 9 March 2023 (Thursday) at 2:30pm at Board Room, 29/F, Tower 2, Enterprise Square Five (MegaBox), 38 Wang Chiu Road, Kowloon Bay.

All to Note

There being no other business, the meeting was adjourned at 12:30pm.

**CIC Secretariat
December 2022**