

Construction Industry Council

Committee on Procurement

Meeting No. 004/12 of the Committee on Procurement was held on Friday, 7 December 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. 004/12:

Agenda Item	Paper	Major Resolutions/ Progress Highlights
4.1	CIC/PCM/R/003/12 (for discussion)	Confirmation of the Progress Report Members confirmed the Progress Report of Meeting No. 003/12 held on 24 September 2012.
4.2	CIC/PCM/R/003/12 (for discussion)	Matters Arising from the Previous Meeting <u>Item 3.3 –The Competition Ordinance and the Summary of Views and Concerns of the Construction Industry</u> Chairman of the Task Force on Competition Law (TF-CLW), edited the article on the Competition Ordinance previously submitted to the Committee on Procurement (Com-PCM) at Meeting No. 003/12 to make it more accessible to a wider audience. Details were discussed under agenda item 4.5. <u>Item 3.4 (a) – Possible Deliverables of the Task Force on Competition Law</u> It was proposed that the aforesaid article on the Competition Ordinance might be further developed for publication at the CIC website in the form of a factsheet or a newsletter. Details

Agenda Item	Paper	Major Resolutions/ Progress Highlights
		<p>were discussed under agenda item 4.5.</p> <p><u>Item 3.7 – Proposed Formation of a Task Force on Employer-Procured Insurance Policies in Construction Contracts</u></p> <p>A Task Force on Employer-Procured Insurance Policies in Construction Contracts (TF-EPI) was being formed. Chairman of the TF-EPI proposed to invite nomination from the Hong Kong Confederation of Insurance Brokers (HKCIB) to join the Task Force. Details were discussed under agenda item 4.8.</p>
4.3	CIC/PCM/P/024/12 (for discussion)	<p>Hong Kong’s Construction Industry Vision 2020 of the Hong Kong Construction Association (HKCA’s Vision 2020)</p> <p>Members took note of the paper enclosing a copy of “Hong Kong’s Construction Industry Vision 2020 – June 2012” prepared by the Hong Kong Construction Association (HKCA) and the Construction Industry Group (CIG) of the British Chamber of Commerce.</p> <p>Representatives from HKCA, Mr Russell JONES and Mr David LEONG, attended the meeting and briefed Members on HKCA’s Vision 2020. Members’ attention was drawn to the five focus areas, namely Safety, Health and Quality of Life; Environment and Natural Resources; Project Procurement; Productivity; and Viability of the Industry, addressed in HKCA’s Vision 2020.</p> <p>In respect of project procurement, Mr JONES advised Members that the two major issues were security of payment and collaborative working. On security of payment, Mr JONES</p>

Agenda Item	Paper	Major Resolutions/ Progress Highlights
		<p>stated that the government was looking into legislating for security of payment in the construction industry and this together with the adoption of adjudication should help to reduce the number of payment disputes ending up in arbitration or litigation. On collaborative working, Mr JONES stated that more collaborative working was needed and there was a need to explore ways of getting the participants to work together on a project at an earliest possible time. Mr JONES further drew Members' attention to the "Indicator of Success Timeline" which set out the sequence of activities over time (from 2010 to 2020 and beyond) in HKCA's Vision 2020.</p> <p>Members questioned on the definition of some of the targets stipulated in the "Indicator of Success Timeline" in HKCA's Vision 2020. Members also debated on whether the said targets were realistic. After much deliberation, Members agreed to support in general the "spirit of collaborative working" and the "spirit of having final accounts settled amicably and as soon as practicable" captured in HKCA's Vision 2020, although it was also agreed that some of the targets set might be over-ambitious and might need to be re-visited in future.</p> <p>Chairman further suggested to give recommendations to the Council to support the initiatives set out in the five focus areas in HKCA's Vision 2020. In respect of project procurement, Chairman advised that the Com-PCM and its Task Forces (such as the Task Force on NEC3 Collaborative Contracts and the Task Force on the Selection of Consultants and Contractors) had already been pursuing a number of the initiatives stipulated in HKCA's Vision 2020.</p>

Agenda Item	Paper	Major Resolutions/ Progress Highlights
4.4	CIC/PCM/P/025/12 (for discussion)	<p>Revised Categorisation of the CIC Publications</p> <p>Members took note of the new categories of the CIC Publications approved by the Council and debated on whether the categorisation of the two documents previously issued by the Com-PCM (i.e. the Guidelines on Partnering and the Guidelines on Contract Price Fluctuation System) should be changed.</p> <p>Whilst some Members felt that, on the basis of the change in definition of “Guidelines”, the publications should be re-categorised to “Reference Materials”, some suggested that the categorisation should be maintained as “Guidelines” in order not to lose the impact of the publications. No consensus could be reached amongst Members.</p>
4.5	CIC/PCM/P/026/12 (for information)	<p>Report of the Task Force on Competition Law</p> <p>Further to the last meeting of the Com-PCM, Chairman of the Task Force on Competition Law (TF-CLW), edited the article on the Competition Ordinance, Cap 619 previously submitted to the Committee. The revised article was entitled “Hong Kong’s New Competition Law: An Introduction” and Chairman of the TF-CLW briefed Members on details of the article.</p> <p>Members were informed that the Competition Ordinance (Commencement) Notice 2012 was published in the Government of the Hong Kong Special Administrative Region Gazette on 23 November 2012. The commencement notice brought those provisions in relation to the short title, commencement of the Competition Ordinance, interpretation, guidelines to be issued by the Competition Commission, and other provisions related to the establishment and operation</p>

Agenda Item	Paper	Major Resolutions/ Progress Highlights
		<p>of the Competition Commission into operation on 18 January 2013, and those provisions in relation to the Competition Tribunal into operation on 1 August 2013.</p> <p>With regards to the progress and possible deliverables of the Task Force, Chairman of the TF-CLW proposed to further edit the article on “Hong Kong’s New Competition Law: An Introduction” and publish it at the CIC website in the form of a factsheet or a newsletter. Chairman also proposed to co-opt one or two Member(s) into the Task Force to help with the preparation of the deliverables of the Task Force. Members were further advised that a Forum on “Competition Law cum Security of Payment” was currently being planned for mid-2013.</p>
4.6	<p>CIC/PCM/P/027/12 (for discussion)</p> <p>CIC/PCM/P/028/12 (for discussion)</p>	<p>Summary Reports of the Task Group on NEC3 Collaborative Contracts</p> <p>Members took note of the Summary Reports for the Task Group on NEC3 Collaborative Contracts (TG-NEC). Chairman of the TG-NEC informed Members that the Task Group had embarked on preparing a Frequently Asked Question (FAQ) document to aid industry stakeholders’ understanding on the NEC3 as a form of collaborative contracts. The document would aim at sharing knowledge and experience on the application of NEC as a form of collaborative contracts in Hong Kong. Chairman of the TG-NEC further advised Members that a Casebook on NEC3 might be the next form of deliverables of the Task Group, if appropriate, after issuance of the FAQ document.</p>
4.7	Verbal Report	<p>Report of the Task Force on the Selection of Consultants and Contractors</p> <p>Drafting of the Guidelines on the Selection of Consultants was in progress. With the assistance of the Com-PCM Chairman, a report editor had been identified to aid with the</p>

Agenda Item	Paper	Major Resolutions/ Progress Highlights
		editing work of the draft Guidelines. Following a briefing session held in October 2012, the report editor prepared the first edited draft of the Guidelines. The edited draft was currently under review by the Task Force Chairman and it was expected that the document would be ready for circulation to the Task Force and hence the Com-PCM after a few rounds of editing or re-drafting.
4.8	CIC/PCM/P/029/12 (for discussion)	Formation of the Task Force on Employer-Procured Insurance Policies in Construction Contracts Members took note of the Terms of Reference and updated Membership List of the Task Force on Employer-Procured Insurance Policies in Construction Contracts (TF-EPI). Members were informed that, based on the proposed Membership List as endorsed at the last meeting of the Com-PCM, nominations of representatives to join the Task Force had been received from all the relevant organisations, except the Real Estate Developers Association of Hong Kong (REDA) which replied that they had no nomination. To enable representation of the insurance brokers in the Task Force, Com-PCM endorsed TF-EPI Chairman's proposal for inviting nomination from the Hong Kong Confederation of Insurance Brokers (HKCIB) to join and participate in the TF-EPI.
4.9	CIC/PCM/P/030/12 (for discussion)	Year Plan for 2012/2013 Members noted and confirmed the year plan.

Agenda Item	Paper	Major Resolutions/ Progress Highlights
4.10	CIC/PCM/P/031/12 (for information)	Meeting Schedule for 2013 Members noted and confirmed the Meeting Schedule of the Com-PCM for 2013.
4.11	AOB	Nil