

Legislative Council Panel on Transport

Subcommittee on Matters Relating to the Implementation of Railway Development Projects

Investigation Report on KCRC West Rail Contracts

Background

In January 2002, there was public concern about the additional payments made by the Kowloon-Canton Railway Corporation (KCRC) to Siemens, the contractor for the West Rail telecommunications systems (Contract DB1500), and to other West Rail contractors under a total of 26 supplemental agreements.

2. To address the public concern, the KCRC Managing Board asked KPMG to conduct an investigation under the supervision of an independent Steering Committee, chaired by the KCRC Chairman. In the absence of an agreement with KPMG on the indemnity requirements, KCRC subsequently appointed Ernst & Young to undertake the investigation. The Steering Committee decided that the investigation should cover the Siemens contract and a sample of two representative supplemental agreements (Contract CC213 – construction of Tuen Mun Station and Contract CC404 – construction of Mei Foo Station).

The Investigation Report

3. The Steering Committee and the KCRC Managing Board have now received and accepted the investigation report from Ernst & Young. A letter from KCRC enclosing the investigation report, the Executive Summary of the report and a letter from the Steering Committee to the KCRC Managing Board are at **Annex**.

4. The Government welcomes the Managing Board's decision to implement the recommendations in the investigation report. To implement its new railway projects effectively, it is important that KCRC take all the necessary steps to implement the recommendations to strengthen the Corporation's systems and procedures for contract procurement, monitoring and management. The Government will render full support to KCRC in implementing the recommendations.

5. The separation of the duties and functions of the Chairman and chief executive in December last year has helped strengthen the corporate governance of KCRC. The investigation report also suggested that consideration should be given to appointing persons with specific knowledge and experience of major projects to the Managing Board in order to complement the existing Managing Board's knowledge and experience. The Government will consider this when reviewing the appointment of Board Members later this year.

Transport Bureau
16 May 2002

Kowloon-Canton Railway Corporation

Our Ref.: CHM/CSL/CHM/DF-06

15 May 2002

Secretary for Transport,
Transport Bureau,
Room 1605, 16/Fl.,
Murray Building,
Garden Road,
HONG KONG.

Attn.: Mr Paul Tang

Dear

I refer to your letter to the Corporation's Chief Executive Officer dated 15 May 2002 and confirm on his behalf that the Managing Board has reviewed the content of the Ernst & Young Report (the Report) and has resolved that a copy of the Report be made available to the Government.

It is the Corporation's understanding that the Bureau will forward copies of the Report to the Legislative Council. Please find under cover of this letter –

- (a) One hundred (100) copies of the Report (English only);
- (b) 100 copies of the Introduction and Executive Summary of the Report (English and Chinese); and
- (c) a copy of a letter from the Investigation Steering Committee dated 15 May 2002 (English & Chinese)

15/05/02

Our Ref.: CHM/CSL/CHM/DF-06

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It is also the Corporation's understanding that the Bureau's preference is that the Report be made available to the public in such manner as the Corporation deems appropriate. In this regard, please be advised that copies of the Report will be made available to representatives of the media tomorrow.

Yours sincerely,

(David Fleming)
Company Secretary

Kowloon-Canton Railway Corporation

14 May 2002

Company Secretary,
Kowloon-Canton Railway Corporation,
KCRC House,
9 Lok King Street,
Fo Tan,
New Territories

Dear Sir,

Review of Payments to Contractors for the West Rail Project

Please be advised that we, the members of the Investigation Steering Committee, do hereby certify that in our considered opinion the auditors, Messrs Ernst & Young, have submitted a report in accordance with the terms of reference agreed to between the auditors and the Corporation.

We further confirm that we, in accordance with our terms of reference, have reviewed the content of the report and satisfied ourselves that the report is a thorough and fair review of all relevant aspects of contract DB-1500 and the supplemental agreements entered into in respect of contracts DB-1500, CC-213 and CC-404.

We note that there are a certain number of references in the auditors report which have been deleted in the report to be provided by the Corporation to the Government. We are satisfied that these deletions are necessary and appropriate having regard to the Corporation's legal obligations to each of the contractors and third parties who have been referred to in the report and that those relating to liquidated damages are appropriate having regard to the commercial sensitivity of the information contained therein, which if disclosed would prejudice the Corporation's ability to act in a prudently commercial manner.

Having reviewed the auditor's recommendations, we are satisfied that they are appropriate and recommend to the Corporation that it takes such steps as are necessary in order to implement the same.

Michael Tien
Chairman

Sir John Swaine
Member

Professor C.F. Lee
Member

Denis Levett
Member