

ETWB(T) 4/6/237

Tel.: 2189 2108

Fax: 2136 8017

By Fax: 2121 0420

22 January 2007

Panel on Transport
Legislative Council Secretariat
3rd floor, Citibank Tower
3 Garden Road, Hong Kong
(Attn: Ms Sarah Yuen)

Dear Ms Yuen,

LegCo Panel on Transport
Follow-up action
Improvement to Tung Chung Road between
Lung Tseng Tau and Cheung Sha

During the Transport Panel meeting held on 15 December 2006, Members raised concern over the liability of the contractor in causing the delay to the works progress of the improvement to Tung Chung Road. I hereby provide the relevant information in response to Members' concern.

The Administration has a stringent monitoring system on the implementation of public works contracts. On progress monitoring, the resident site staff of the Administration's engineering consultant regularly review and assess the master construction programme submitted by the main contractor. Depending on the actual site conditions and progress of works, the engineering consultant will ask the main contractor to update and amend the programme when required, including reasonably extending the completion dates in accordance with relevant contract conditions. At the same time, if the main contractor's progress of works is unsatisfactory, the engineering consultant will issue warnings to the main contractor and request for faster progress to avoid delay. If the main contractor completes the works beyond the contract period, the Administration will impose liquidated damages on the contractor in accordance with contract conditions.

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With regard to the management of sub-contractors, the main contractor is obliged under the terms of the contract to submit an updated sub-contractor management plan quarterly to the engineering consultant. This plan is used by the engineering consultant to monitor the day-to-day management of the sub-contractors by the main contractor according to the information provided. In case project progress is adversely affected as a result of the management problems of sub-contractors, the main contractor is responsible for the delay caused by the poor performance of his sub-contractors.

According to our record, the contract on the Improvement to Tung Chung Road between Lung Tseng Tau and Cheung Sha has all along been monitored under the aforesaid system. Since the beginning of the contract, there has not been total stoppage of any parts of the works over an extended period caused by disputes between the main contractor and sub-contractors. We will continue to closely monitor the project under the existing system and carry out appropriate follow-up action according to the provision of the contract.

With regard to the inference that the contractor, through delaying the completion of the contract, might gain additional financial compensation through the mechanism of contract price fluctuation adjustment, we must point out this is not practicable under the existing mechanism. The contract price fluctuation adjustment mechanism is only applicable to the original contract period and the period of extension in accordance with the conditions of the contract. The amount payable to the contractor will be adjusted according to relative changes between the price fluctuation factor of the relevant month and base month only within the above period.

Beyond the approved contract completion date (including the approved extension of time), and during the period of delay attributable to the fault of the contractor, the monthly payment will only be adjusted according to the last contract price fluctuation factor (being the contract price fluctuation factor on the date of the approved contract completion date). In other words, this last contract price fluctuation factor will be frozen, and the subsequent changes of construction prices will not affect the amount payable afterwards. Therefore, the contractor will not gain additional benefit through the contract price fluctuation adjustment mechanism as a result of delay to the completion of works attributable to his poor performance.

Finally, we would like to take this opportunity to assure Members that we will continue to closely monitor the contractor's performance and progress of the works, with a view to completing the Tung Chung Road improvement project as soon as possible.

Grateful if you could relay the information above to Members of the Panel on Transport.

Yours sincerely,

(Miss Trinky Chan)
for Secretary for the Environment,
Transport and Works

c.c.

SFST	(Attn: Ms Angela Ho)	2147 5240
Director of Highways	(Attn: Mr Wan Man-leung)	2714 5289

Internal

AS(PM)3	(Attn: Mr Michael Leung)	2537 1961
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