

**LEGISLATIVE COUNCIL
PUBLIC WORKS SUBCOMMITTEE**

666CL – Formation, roads and drains in Area 54, Tuen Mun – phase 1

681CL – Formation, roads and drains in Area 54, Tuen Mun – phase 2

Follow-up Actions to Meeting on 20 May 2015

Regarding the follow-up actions in respect of part-upgrading of **666CL** for the “Formation, roads and drains in Area 54, Tuen Mun – phase 1” and part-upgrading of **681CL** for the “Formation, roads and drains in Area 54, Tuen Mun – phase 2” to Category A during the discussion of PWSC(2015-16)10&11 at the meeting of the Public Works Subcommittee (PWSC) on 20 May 2015, we would like to provide the Government’s responses below –

At the request of the Chairman and Dr Hon KWOK Ka-kai, the Administration will provide information on -

- (a) examples (of projects) to illustrate the benefits of the adoption of the New Engineering Contract ("NEC") form for public works projects;
- (b) whether there are similarities between the NEC form and the contract form adopted by the Housing Authority for building contracts; if yes, the details;
- (c) if the NEC form had been adopted for the Liantang/Heung Yuen Wai Boundary Control Point project and the Central-Wan Chai Bypass and Island Eastern Corridor Link project, whether the cost overruns would not have occurred; and
- (d) a review on the effectiveness of the adoption of the NEC form after the completion of the 19 works projects currently implemented/completed under the form.

Responses :

- (a) The three completed pilot NEC contracts comprise one nullah improvement project and two noise barriers retrofitting projects (please see the Annex for details). In these completed projects, we observed that NEC had brought about effectiveness in risk mitigation, enhanced communication and improved working relationship amongst parties.
- (b) Before adopting its own standard conditions of contract in May 2014, the Housing Authority (HA) adopted the Government of Hong Kong General Conditions of Contract (Government GCC) in its capital works contracts supplemented with its own Special Conditions of Contract (SCC) to implement the HA's quality housing initiatives and to suit its operation. With a view to preserving users' (e.g. contractors, sub-contractors and project teams) long-established experience with the adopted conditions of contract for execution of project works, the HA developed its own standard conditions of contract which were based upon their adopted conditions of contract (i.e. Government GCC, and the prevailing SCC clauses) and initiatives of good practices.

The HA's standard conditions of contract are aimed to (i) cater for HA's circumstances and requirements, (ii) uphold HA's policies in respect of fair risk allocation and dispute avoidance, and (iii) foster collaboration between HA and contractors. Whilst the contract provisions are not identical between the NEC and the HA's standard conditions of contract, they have similarities in that both of them embody a mechanism for the parties of the contract to work together and encourage them to build consensus, and proactively and jointly manage project risks so as to achieve the common goals of project execution.

- (c) The approved project estimate (APE) of the Liantang/Heung Yuen Wai Boundary Control Point project has to be increased mainly because of the higher-than-expected tender price due to a surge in construction costs in recent years (such as wage levels of construction workers, machinery and construction materials) and the ground conditions being more difficult than envisaged. For

Central-Wan Chai Bypass and Island Eastern Corridor Link project, the APE has to be increased mainly because of increase in provision for price adjustment. The details of cost increase have been explained in the relevant funding papers.

The NEC form emphasises mutual trust and co-operation between the contracting parties, and collaboration in risk management. It enhances the efficiency in project management. As the cost overruns of these projects are not in connection with project management, we do not consider that the cost overruns of these two projects would be affected had they adopted the NEC contract form.

- (d) To date, NEC has been adopted in 19 works contracts, three of them are already completed and 16 are ongoing. All the three completed contracts show positive results. As most of the NEC pilot contracts are still under construction, we shall carry out a comprehensive review on the effectiveness of the adoption of the NEC form in public works contracts in due course.

Development Bureau
June 2015

List of completed NEC Pilot contracts

	PWP Item	Project Title	Approved Project Estimate (\$ million)
1	4157CD	Improvement of Fuk Man Road Nullah in Sai Kung	95.8
2	6805TH	Noise Barriers on Fanling Highway between MTR Fanling Station & Wo Hing Road	247.1
3	6848TH	Retrofitting of Noise Barriers on Tai Po Tai Wo Road near Po Nga Court	96.6