

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

Operation Building Bright 2.0

**Follow-up Actions Arising from the Discussion
at the Meeting on 20 December 2017**

Supplementary information requested by the Panel on Development on 20 December 2017 is provided below.

Measures to prevent bid-rigging in building repair and maintenance contracts and eradicate collusion between consultants and contractors

2. Apart from the regular efforts against bid-rigging in relation to building repair and maintenance contracts, a number of measures will be put in place for Operation Building Bright 2.0 (OBB 2.0) as elaborated in the following paragraphs.

Smart Tender

3. Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA), being the Government's partners in implementing the first Operation Building Bright (OBB) launched in 2009, rolled out a number of measures to minimise the risk of bid-rigging in relation to building repair projects receiving assistance under OBB. These include a "New Tendering Arrangement" (NTA) which provided owners with an open and fair tendering platform free from intervention, as well as independent cost estimates to facilitate owners in assessing whether the tender prices are comparable with market levels.

4. Under the NTA introduced in September 2013, an independent certified public accountant was appointed to conduct the whole tender invitation and opening process. According to HKHS and URA, over 200 cases had adopted the NTA and the minimum tender prices of about 90% of these cases were lower than the estimates provided by the independent consultant appointed by HKHS and URA.

5. Having regard to the NTA experience, URA launched "Smart Tender" Building Rehabilitation Facilitation Services scheme in May 2016. Under the "Smart Tender", URA will provide a "Do-it-yourself"

handbook to guide owners in organising building repair and maintenance works. URA will also line up an independent consultant to offer advice to owners covering the general scope of works needed and a relevant cost estimate. As an enhancement to the NTA, owners using “Smart Tender” can use the electronic tendering (e-tendering) platform for engaging contractors where the identity of tenderers would remain anonymous until tender opening.

6. The building repair and maintenance projects undertaken by owners who have participated in “Smart Tender” are still in an initial stage with contractors yet to be engaged. That said, making reference to the positive experience in using NTA in the last round of OBB, we believe that “Smart Tender” will be an effective tool to minimise the risk of bid-rigging in building repair and maintenance contracts. URA did not receive any reported bid-rigging cases from owners who have participated in “Smart Tender” thus far.

7. Under OBB 2.0, owners of participating Category 1 buildings must participate in “Smart Tender” (save for those where the owners concerned have already invited tenders for building repair and maintenance contracts as of 20 December 2017).

Extending e-tendering platform for procurement of consultancy

8. With a view to equipping owners with additional information to consider the reasonableness of prices for consultancy tenders, URA is exploring in conjunction with stakeholders the feasibility of extending the e-tendering platform under “Smart Tender” for the procurement of consultancy from the second half of 2018 onwards.

RenoSafe Scheme

9. All buildings joining OBB 2.0 will be automatically registered for the RenoSafe Scheme operated by the Hong Kong Police Force (Police) to enjoy the services offered. Under the Scheme, officers of the Anti-Triad Squads would pay visits to participating buildings, offering owners services including a hotline for enquiry and crime reporting as well as public education materials relating to building repair works, etc. Moreover, Police officers will be present at the meetings of Owners’ Corporations (OCs) or owners’ committees on a need-basis during the works tendering process to render advice on measures to combat bid-rigging.

Briefings for Buildings Joining OBB 2.0

10. Awareness of owners is of essence in detecting and reporting susceptible bid-rigging cases. URA will organise briefings for all buildings joining OBB 2.0 in which education on anti-bid-rigging would be highlighted.

Avoidance of conflict of interest between Consultant and Contractor

11. Under OBB 2.0, participating buildings will be required to undertake inspection and repair works required under the Mandatory Building Inspection Scheme (MBIS). Under the Buildings Ordinance (BO), owners are required to appoint a Registered Inspector (RI) to undertake the prescribed inspection and a Registered Contractor (RC) to conduct the necessary prescribed repair works. To avoid any conflict of interest between the RI and the RC, there are statutory requirements under MBIS that the RI must not act as the RC to carry out the prescribed repair for the same part of the building under section 30D(7) of the BO and has to certify that he is not a partner, director, or authorised signatory of the RC appointed to carry out the prescribed repair according to Building (Inspection and Repair) Regulation sections 12(3) and 13(2). If the Building Authority has reason to believe that any person has violated the said provisions, Buildings Department (BD) will consider instigating prosecution and/or taking disciplinary actions against them.

Support service under Building Rehabilitation Platform

12. Drawing on its experience in assisting owners in carrying out building repair works, URA is setting up the Building Rehabilitation Platform (BRP) to replace the existing “Building Rehab Info-Net” website. BRP is designed to have the participation of stakeholders including relevant professional bodies, professional societies, government departments and law enforcement agencies. It provides an “all-in-one” platform where owners could access all information on building repair works, including –

- (a) rules and guidelines of consultants and contractors;
- (b) standard documents in procuring consultants and contractors;
- (c) cost references of building rehabilitation works; and

(d) list of consultants and contractors who are eligible for and interested in undertaking building repair works. Discussion with the stakeholders on the feasibility of providing such list is underway.

13. URA targets to launch the BRP services by phases starting from mid-2018 with a view to dovetailing it with the implementation of OBB 2.0. Liaison with relevant government agencies and stakeholders is being conducted at present.

Suspected number of bid-rigging cases of OBB and related enforcement statistics

14. URA and HKHS, being the Government's partners in implementing OBB in May 2009, had maintained close liaison with law enforcement agencies in combating irregularities observed in the course of administering the repair and maintenance works under OBB. Cases involving suspected irregularities, irrespective of whether they were related to bid-rigging, were reported to the relevant enforcement agencies. Up to the end of December 2017, about 120 cases of suspected irregularities, which may or may not include an element of bid-rigging, were referred to the Competition Commission, the Independent Commission Against Corruption or the Police by the HKHS and URA for attention and investigation as appropriate. According to the results of the investigation by the enforcement agencies involved, no prosecution involving an element of bid-rigging was instituted in relation to OBB cases.

Effectiveness of OBB

15. As pointed out in FCR(2011-12)33 when seeking the final injection of \$1 billion for the first OBB (which increased the total commitment of OBB to \$3.2 billion, excluding the contribution of URA and HKHS of \$150 million each), it was anticipated that Operation would benefit over 3 000 target buildings.

16. There were two categories of target buildings under OBB. Category 1 target buildings were those where the OCs concerned were prepared to carry out repair works on a voluntary basis. A total of 1 678 applications for Category 1 target buildings from OCs were received, among which 1 375 applications involving a total of 1 848 buildings met the eligibility criteria and the applicants had not withdrawn the applications. All of them were granted approvals-in-principle (AIP). Of

the Category 1 target buildings with AIP, 289 were cancelled after AIP granted due to, e.g. OC's own request. A total of **1 559** Category 1 target buildings received assistance under OBB.

17. Category 2 target buildings were those having difficulties in coordinating repair works, such as buildings without OCs. A total of **1 472** buildings had been confirmed as Category 2 target buildings¹. Of those buildings, 194 eventually organised repair works voluntarily and followed the approach for Category 1 target buildings to carry out repair works². BD had arranged repair works for the remaining Category 2 target buildings.

18. In summary, a total of **3 031** target buildings in different categories had received assistance under OBB. The anticipated target of OBB had been generally achieved.

19. Besides, OBB had been effective in creating job opportunities for the construction sector, which was one of the stated objectives of the Operation. Specifically, it created over 50 200 job opportunities for building professionals, contractors, technicians, workers, etc. According to the statistics released by the Census and Statistics Department, comparing the first quarter of 2009 with the third quarter of 2017, the unemployment rate of the construction sector decreased from 11.2% to 4.7% and that in the decoration, repair and maintenance for buildings sub-sector decreased from 17.2% to 5.9%.

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¹ Depending on the circumstances, BD would issue statutory repair orders to such buildings to effect the necessary repair works. If the owners of the buildings were unwilling or unable to conduct repair works by themselves, BD arranged government consultants and contractors to carry out the works for the owners in default and recovered the cost of the works plus supervision charge from the owners concerned. However, if the owners or OCs of the buildings were willing to organise repair works voluntarily, they followed the approach for Category 1 target buildings to carry out repair works.

² These buildings do not count towards the 1 559 Category 1 target buildings.