

立法會
Legislative Council

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by the Administration)

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Panel on Housing

**Minutes of special meeting to discuss measures
to improve building quality in public housing flat
held on Tuesday, 14 December 1999, at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon LEE Wing-tat (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon David CHU Yu-lin
Hon HO Sai-chu, SBS, JP
Hon Edward HO Sing-tin, SBS, JP
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Dr Hon YEUNG Sum
Hon SZETO Wah

Member attending : Ir Dr Hon Raymond HO Chung-tai, JP

Members absent : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP

**Public officers
attending** : **For item II**

Housing Bureau

Miss Sandy CHAN, Principal Assistant Secretary

Mrs Catherine CHUI, Assistant Secretary (Special Duties)³

Housing Department

Mr Raymond BATES, Deputy Director/Works

Mr Andrew LAI, Head, Corporate Strategy Unit

Planning, Environment and Lands Bureau

Mr G F WOODHEAD, Principal Assistant Secretary
(Buildings)

Works Bureau

Mr W S CHAN, Deputy Secretary (Works Policy)

Architectural Services Department

Mr S H PAU, JP, Director

Buildings Department

Mr H W CHEUNG, Deputy Director

Mr K M MO, Assistant Director/Development

Mr K K CHOI, Chief Officer/Site Monitoring

Attendance by invitation : **For item I**

Independent Commission Against Corruption

Mr Thomas C S CHAN, Director of Corruption Prevention

Mr K M CHAN, Assistant Director/Corruption Prevention

Mr Dominic WONG, Group Head

Clerk in attendance : Mrs Mary TANG, Chief Assistant Secretary (1)⁶

Staff in attendance : Miss Becky YU, Senior Assistant Secretary (1)³

I Meeting with the Independent Commission Against Corruption (ICAC)

(LC Paper No. CB(1) 586/99-00(01))

At the invitation of the Chairman, the Director of Corruption Prevention (DCP) briefed members on the submission from ICAC. He said that ICAC had completed a number of studies on different aspects of construction projects in both the public and the private sectors. These studies included the procedures adopted by various government departments in the monitoring of construction works in private, government and public housing projects as well as the employment of consultants in the implementation of these projects. Most of the major recommendations to prevent corruption and malpractice in these studies had been accepted in principle by the relevant government departments. Some of them had already been implemented and others were being actively considered for implementation.

2. As to whether corruption in construction projects was more prevalent in the public sector than in the private sector, DCP advised that corruption was not uncommon in private building projects but the tight construction schedule of public housing projects might have increased the potential for malpractice.

3. On *site supervision*, Mr NG Leung-sing asked how site supervisory staff could be prevented from developing unhealthy relationship with contractors given that they had to work closely with the latter on site. While acknowledging that normal working relationship was necessary, DCP considered it inappropriate for site staff to over-socialize with contractors, particularly after work. Activities such as gambling, lavish and frequent entertainment or moonlighting with contractors should be avoided as these would put the site staff in a position of obligation to the contractors and undermine their effectiveness in controlling the quality of contractors' work. Any site staff who, without lawful authorization, accepted any advantage from a contractor as a reward for any act in relation to his employer's business committed an offence under section 9 of the Prevention of Bribery Ordinance (Cap. 201) (POBO). Mrs Selina CHOW was particularly concerned about moonlighting as this fell outside the jurisdiction of POBO. DCP agreed that POBO might not be able to cover all situations. Employers were therefore encouraged to draw up a code of conduct on outside practice for their site staff. The Assistant Director/Corruption Prevention (AD/CP) added that there was no simple solution to the problem of construction quality. In addition to reviewing government's procedures for the administration of public construction projects, ICAC had also joined forces with various trade associations and professional institutes with a view to combating corruption through the promotion of corruption prevention awareness in the construction industry. ICAC had organized many training seminars to brief site staff on the relevant provisions of POBO. The seminar of "Construction 2000" organized by the ICAC on 7 December 1999 had highlighted some of the problems and ethical issues faced by the industry.

4. On *quality control tests*, Mr CHENG Kai-nam enquired about the extent of tampering of test specimens of construction materials by laboratories appointed by main contractors. DCP advised that ICAC did not have a detailed breakdown in this respect. He however reiterated that apart from improving the system of sampling and testing of construction materials, it was important to enhance corruption prevention awareness in the industry with a view to reducing the potential for corruption.

5. On *consultant projects*, DCP agreed with Mr CHAN Kam-lam's observation that the effectiveness of quality control measures would hinge on adequate monitoring. It was however noted that in some public works projects, particularly those managed by consultants, the relevant government departments, including the Housing Department (HD), were reluctant to deploy additional staff to monitor the performance of consultants on the ground that the latter were hired for their professional competence to ensure the quality of work on site. As such, they might not be in a position to ascertain whether the consultants had adequately fulfilled their responsibility. To this end, ICAC had recommended that consultants should be required to report regularly to HD on building quality problems so that these could be rectified at the earliest possible stage to avoid costly and substantial remedial works at the completion stage. Mr Edward HO however did not agree with DCP's comment on the lack of monitoring of consultants by HD since at present, consultants were required to hold regular site meetings with HD and submit regular progress reports on the projects to HD. He cautioned that HD would need to employ a large number of supervisory staff if it had to monitor the work of each and every consultant. The ultimate solution to improve building quality was to encourage self-regulation within the construction industry. While agreeing that HD had already in place a monitoring system on consultants, DCP remarked that the proposed improvement in the reporting system would further strengthen the monitoring of consultants by HD.

6. Mr NG Leung-sing considered it more practicable to include in the contracts provision for mandatory reporting by consultants so that they would be held legally liable in the event of non-compliance. DCP advised that the prevailing consultant agreements already required regular reporting. The objective of the proposal on more improved reporting by consultants was to enable the identification of quality problems at an early stage.

7. On *contract award*, Mr Edward HO was disappointed at the lack of concrete measures to improve the tendering system of HD in ICAC's submission. DCP explained that HD was developing new procedures for tendering to take into account the past performance of tenderers. ICAC would work closely with HD to ensure that the new procedures conformed to corruption-resistant practices.

8. Ms CHAN Yuen-han asked if ICAC would encourage HD to take the lead to abolish the subcontracting system with a view to improving building quality. DCP confirmed that non-productive subcontracting was undesirable as the additional layers would reduce profit margins and increase the incentive and potential for malpractice. To this end, the Works Bureau (WB) was considering measures such as a registration system for subcontractors, requirement for contractors to obtain clients' consent before subcontracting and employment of long-term workers by contractors. He however

emphasized that even if the levels of subcontracting had been reduced, there remained a need to strengthen supervision on site to ensure that the works were up to the required standard. ICAC would continue to give advice on the formulation of new policies and initiatives in enhancing construction quality through representation at the Construction Advisory Board chaired by the Secretary for Works and its Quality Construction Committee.

9. On *acceptance of building works*, AD/CP shared Mr HO Sai-chu's concern about the different acceptance standards being applied by HD staff at different stages of construction. To this end, ICAC had recommended HD to draw up a set of practical and enforceable guidelines to ensure consistency of standard. As to whether heavier penalties should be imposed on contractors in the event of non-compliance with the quality standard requirements, DGP agreed that a clear penalty system was essential to enhance building quality. However, details of the penalty systems would have to be carefully worked out by the Administration.

II Meeting with the Administration

Works Bureau

(LC Paper No. CB(1) 586/99-00(02))

10. The Deputy Secretary for Works (Works Policy) (DSW/WP) briefed members on the information paper setting out the tendering system for public works contracts. He stressed that the Administration was not bound to accept the lowest tender. Pre-qualification of tenderers would be considered for contracts which were high-valued, complex, technically demanding and subject to a very rigid completion programme and a high level of co-ordination. However, if pre-qualification was not practicable due to time constraint but there remained sound reasons for engaging a more reliable and better performing contractor, a marking scheme might be adopted in tender evaluation which would give weights to the quality and performance aspects as well as the tendered sum. Normally, the tender which attained the highest overall technical and price score would be recommended.

Architectural Services Department

(LC Paper No. CB(1) 586/99-00(03))

11. The Director of Architectural Services (DAS) briefed members on the schemes and measures implemented by the Architectural Services Department (ASD) in respect of building quality assurance. He said that projects undertaken by ASD were in compliance with the provisions of the Buildings Ordinance (BO) although they were not required to go through the administrative process. As a matter of fact, the supervisory standards for ASD's projects were over and above the requirements specified in the "Supervision Plan" introduced by the Buildings Department (BD).

Buildings Department

(LC Paper Nos. CB(1) 548/99-00(05) and 586/99-00(04))

12. The Deputy Director of Buildings (DDB) advised that BD had the role and responsibility to enforce the safety and health standards for private buildings provided in building regulations by administering a system of approval, consent and permits for occupation of buildings provided for in BO. He added that although buildings under the control and management of the Housing Authority were exempt from BO, HD would from time to time seek comments from BD on the interpretation and application of BO and Building Regulations on building designs and on individual projects.

Discussion session

13. On *tendering system*, Dr YEUNG Sum asked if WB would require all contractors to be certified to the International Standardization Organization (ISO) 9000. DSW/WP explained that there were different requirements for different groups of public works contracts. Group C contractors who were permitted to tender for contracts of value exceeding \$50 million were required to obtain ISO 9000 certificate before they could be included in the lists of approved contractors under WB. Consideration was being given to extend the same requirement to other groups of contractors pending consultation with the industry.

14. Dr YEUNG asked how WB could ensure construction quality in the event that only the lowest tender price was accepted. In reply, DSW/WP pointed out that the majority of public works contracts were tendered by way of selective tendering, under which only contractors on the relevant lists of approved contractors would be invited to submit tenders. As the qualification of these contractors had been established and approved for the purpose of selective tendering, they should have sufficient financial and technical capabilities to undertake a public works contract even with a low tender price. The system was proved to be effective given that no significant construction problems had been reported over the past years. He nevertheless reiterated that the Administration was not bound to accept the lowest bid. According to information, about 15% of the public works contracts were not awarded to the lowest tender in 1999 for reasons such as poor past performance of the contractors concerned, the present value of the tender price was not the lowest or the combined technical and price score of the lowest tender was not the highest.

15. Referring to paragraph 17 of LC Paper No. CB(1) 586/99-00(02), Mrs Selina CHOW expressed concern about the effectiveness of the evaluation criteria for assessing tenders, particularly when some of the criteria such as the requirement for timely completion of projects were hard to quantify. DSW/WP advised that as tenderers were required to include in the tender documents method statements, work schedule and after sales support and service etc, these would provide the basis upon which the Administration could evaluate the tenders.

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16. As regards the tendering system of HD, the Deputy Director/Works (DD/W) advised that it was very similar to that of WB with the exception that HD placed 80% of the assessment weighting for tender price and 20% for performance. Notwithstanding, greater tendering opportunities would be given for better performed contractors. At present, only those on the top of the list of approved contractors were invited to tender for all HD contracts, those in the middle were given some tendering opportunities while the bottom 25% were not invited to tender for any contracts. Mrs CHOW expressed concern that HD had placed too much emphasis on tender prices. To facilitate a better understanding of the difference in practices between WB and HD, the Administration was requested to provide:

- the prevailing tendering system for public housing projects;
- the respective weightings between tender price and performance of contractors/consultants in the evaluation of tenders for different types of public works and public housing projects; and
- the percentage of public works and public housing contracts that had not been awarded to the lowest tender over the past five years.

17. On *subcontracting system*, Dr YEUNG Sum considered that HD should take the lead in revamping the system with a view to enhancing building quality. DD/W advised that while excessive multi-level subcontracting was undesirable, a certain level of subcontracting was necessary to ensure effective use of manpower and resources within the industry. To control non-productive subcontracting, measures such as registration of subcontractors were being considered by the Housing Authority (HA) in the context of the current review on building quality of public housing flats. Members would be informed of the findings upon completion of the review. As to how ASD could ensure that subcontractors were also certified to ISO 9000, DAS explained that it was the responsibility of the main contractors to monitor the performance of its subcontractors. The former would be held legally liable in the event of non-compliance with the quality standard requirements.

18. On *site supervision*, DD/W confirmed that HA was looking at various measures, including the employment of resident engineers as proposed by Mr Edward HO, to strengthen supervision on site. Mr HO however remarked that the current tendering system which placed too much emphasis on fee competition would drive the consultant fees for site engineers too low to provide adequate resources to maintain sufficient supervision during construction. He therefore suggested that instead of inviting tenders from engineers, consideration should be given to reimbursing the engineers on the time spent on supervision. DD/W assured members that the system on appointment and reimbursement of consultants would be examined in the context of the current review.

19. The Chairman enquired about the percentage of supervision cost, as opposed to the total project cost, which had been spent on public works and public housing projects. While agreeing to provide the required information after the meeting, DSW/WP advised

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that site supervision cost varied significantly depending on the complexity of the projects. In general, as most of the public works projects involved civil engineering works which required the close supervision of resident engineers, an average of about 10% of the total project cost would have to be spent on supervision. DD/W agreed that the intensity of site supervision for civil engineering works was greater than that for building works. To ascertain the situation, HA had commissioned a study on the supervision cost spent by HD, the private sector and other organizations in both Hong Kong and overseas countries. Members would be informed of the findings of the study which would be completed in January 2000. DAS added that unlike civil engineering works which required the presence of resident engineers, projects under ASD were monitored by clerks of works. As such, a relatively low percentage of 2.5% to 5% of the project cost would be spent on supervision.

20. On *inclusion of HA buildings under BO and the acceptance procedures of the Building Department* (BD), the Principal Assistant Secretary for Planning, Environment and Works (Buildings) advised that the Administration was discussing with relevant bureaux and departments on how HA could improve its building quality and, if warranted, on the changes that would be required to bring HA buildings under the jurisdiction of BO. A decision had yet to be made. The Chairman sought clarification on a recent discussion relating to the inclusion of only Home Ownership Scheme (HOS) blocks under BO, which in his view was unfair to tenants in public rental housing flats. DDB clarified that the subject referred to by the Chairman was raised when the management of existing HOS and Tenants Purchase Scheme (TPS) blocks was discussed at a LegCo meeting. At present, HD managed both HOS and TPS blocks. However, according to BO, these buildings would come under the jurisdiction of BO after sale. As such, it was necessary for BD to work out the arrangement on how it could take over the control of these buildings with HD.

21. On *sanctions and penalties under BO*, the Chairman asked if BD would increase prosecution against defaulting professionals such as Authorized Persons and Registered Structural Engineers etc to ensure compliance with the statutory requirements. DDB admitted that the number of prosecutions against professionals was relatively low when compared with that of contractors. This was because the former were less involved in the actual construction process. Notwithstanding, BD had set up a working group to examine the roles and responsibilities of professionals in the context of a study on building quality.

22. Referring to table 1 of LC Paper No. CB(1) 548/99-00(05), the Chairman noted with concern that a defaulting contractor was only convicted of a fine of \$7,500 for shortened piles in 1998. He considered that the penalty was not heavy enough to act as an effective deterrent for non-compliance. DDB explained that under section 40(2A) of BO, any person directly concerned with the building works would be liable on conviction to a fine of \$250,000 and to imprisonment for three years. He nevertheless assured members that the working group would also look at the penalty provisions under BO. At members' request, the Administration undertook to provide a full report on the case of shortened piles.

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Way forward

23. To facilitate future discussion on measures to improve building quality in public housing flats, the Clerk was requested to prepare a paper summarizing the views presented to the Panel by representative bodies in the construction industry and government authorities at the current meeting and the previous meetings on 7 and 9 December 1999.

(Post-meeting note: The summary of views was circulated vide LC Paper No. CB(1) 699/99-00.)

III Any other business

24. Members agreed to hold another special meeting on Tuesday, 11 January 2000, at 10:45 am to discuss the summary of views.

25. There being no other business, the meeting ended at 12:45 pm.

Legislative Council Secretariat

31 March 2000