

香港特別行政區政府

The Government of the Hong Kong Special Administration Region

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10 February 2011

Mr Stephen LAM
Clerk to Bills Committee
Legislative Council Building
8 Jackson Road, Central

Dear Mr LAM,

**Bills Committee on Buildings (Amendment) Bill 2010
Administration's Response to Follow-up Issues**

In response to the discussion at the meetings of the Bills Committee on the Buildings (Amendment) Bill 2010 (the Bill) on 23 December 2010, and 7 and 24 January 2011, we are pleased to provide below information in relation to the matters about which Members enquired.

Criminal Liability of Owners' Corporations

According to the proposed new section 40(1BC) and (1BD), any person who fails to comply with a statutory notice served on him/her (to carry out a prescribed inspection of the building or windows owned by that person) commits an offence with a maximum penalty of a fine at level 5 and imprisonment for 1 year, and a fine at level 4 and imprisonment for 3 months respectively. At the Bills Committee meeting on 7 January 2011, Members asked the Administration to explain whether the owners in the management committee of an owners' corporation (OC) who, without reasonable excuse, failed to comply with a notice served on the OC will be liable to imprisonment under section 40(1BC) or (1BD).

In general, a statutory notice under the proposed new section 30B(3), (4), (5) or (6) or 30C(3) or (4) will be served on the owner of the part of building or window concerned. If such part of building or window is located in the common parts of a building, the notice will be issued to the co-owners or the OC of the building. If the notice is served on the OC, the OC, being a body corporate formed under the Building Management Ordinance (Cap. 344), would be directly liable under section 40(1BC) or (1BD) if the statutory notice served on it is not complied with. Moreover, according to section 40(6) of the Buildings Ordinance (Cap. 123) (BO) as extracted here below -

“Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, or other officer concerned in the management of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence.”

Hence, members of the management committee of an OC might be liable for the offences so long as there is direct admissible evidence to prove their role as mentioned in section 40(6) and that they failed to comply with the notice without reasonable excuse. Nevertheless, any prosecution against those members of management committee would be subject to section 29A(1) of Cap. 344 which stipulates that -

“No member of a management committee, acting in good faith and in a reasonable manner, shall be personally liable for any act done or default made by or on behalf of the corporation—

- (a) in the exercise or purported exercise of the powers conferred by this Ordinance on the corporation; or*
- (b) in the performance or purported performance of the duties imposed by this Ordinance on the corporation.”*

The Administration would take into account all the evidence available with reference to the relevant legal provisions before taking prosecution actions against any related person by jointly charging him/her and the OC concerned.

Criminal Liability of Property Managers

At the aforementioned meeting, Members also asked the Administration to explain whether the manager who ignored the instructions of the management committee of an OC to comply with a statutory notice served on the OC (to carry out the prescribed inspection of the building or windows in common parts) will be liable to imprisonment under the proposed new section 40(1BC) or (1BD).

As mentioned above, section 40(1BC) or (1BD) is only applicable to any person who fails to comply with a statutory notice served on him/her under the proposed new section 30B(3), (4), (5) or (6) or 30C(3) or (4). If the property manager is not a director, manager, or other officer concerned in the management of the OC, or any person purporting to act in any such capacity, section 40(6) is not applicable to the property manager. Therefore, a property manager would not be liable under section 40(1BC) or (1BD) by the mere fact that he/she is an agent of the owner. This dovetails with the principle that the owners bear the ultimate responsibility for their own properties. Nevertheless, the property manager will hold liability under the Deed of Mutual Covenant and/or the management contract signed between the OC and manager. Therefore, the manager does need to bear civil responsibility to a certain extent, based on the details of each case.

Supply of Registered Inspectors and Qualified Persons in Market

At the meeting of the Bills Committee on 24 January 2011, Members enquired about the supply of professionals in the market for prescribed inspection under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS).

Under the BO, major building works that require the BA's approval and consent have to be undertaken by authorized persons (APs) and registered structural engineers (RSEs) registered under the BO. There are about 1 800 of them at present. To allow more choices for building owners and enhance market competition, the pool of service providers for building inspections will be expanded from APs and RSEs to registered architects, registered professional engineers of the relevant disciplines and registered professional surveyors of the relevant divisions. These architects, engineers and surveyors have to be registered with their respective statutory professional registration boards and possess adequate relevant work experience in the field of building construction, repair and maintenance in order to be eligible for registration as RIs for carrying out inspections and

supervision of repair works for the MBIS under the BO. With this expansion, we expect that the number of RIs will reach some 6 500, which should be adequate to meet the market demand upon implementation of the MBIS, which covers 2 000 buildings per year. The expansion will at the same time promote competition in the industry.

In comparison with building inspections under the MBIS, the demand of qualified persons (QPs) for window inspections under the MWIS will be even higher, as we plan to cover 5 800 buildings per year. Window inspections are relatively more straightforward and simpler than building inspections. To ensure that there will be adequate qualified personnel to meet the demand of the public and also to enhance market competition, the pool of service providers for window inspections, i.e. QPs, will include APs, RSEs, RIs, registered general building contractors (RGBCs) and registered minor works contractors (RMWCs) who are registered in respect of minor works items relating to windows. Currently, the pool comprises around 10 000 practitioners. With the rising number of registration of RMWCs with the full implementation of the minor works control system, we expect that the number of QPs will be further increased gradually. As window repair works are relatively simple in nature, most repair works for windows will be minor works. The QPs will be able to complete the inspection and (if necessary) repair works for a large number of windows in the building in series. The supply of QPs should be adequate to meet the market demand for 5 800 private buildings per year. Furthermore, such personnel have already been registered under the BO. The BA is satisfied that they are competent to comply with the technical requirements in relation to MWIS.

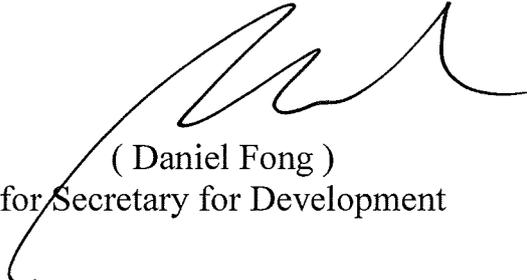
Practice Notes / Code of Practice for Registered Inspectors and Qualified Persons

As explained in our previous paper entitled “Subsidiary Legislation and Practice Notes” (paper no. CB(1)1983/09-10(02)), building safety standards and requirements in Hong Kong are regulated by a three-tier framework. A similar framework will be adopted for MBIS and MWIS. Codes of Practice and Practice Notes will be issued to provide the industry with the fine details of the procedures, technical standards and practices in relation to the requirements of the MBIS/MWIS.

In response to Members’ request, an abstract of the draft Code of Practice as well as a draft Practice Note on Best Practices on Tendering Procedures are at **Annex** for Members’ reference. As the Codes of Practice

and Practice Notes would reflect the statutory requirements stipulated under BO and relevant regulations, their exact wording will be subject to the finalized version of the Bill and the relevant regulations to be scrutinized by the Legislative Council.

Yours Sincerely,



(Daniel Fong)
for Secretary for Development

c.c.
Director of Home Affairs
Director of Buildings
Department of Justice

**Abstract of the Draft Code of Practice for
Mandatory Building Inspection Scheme and
Mandatory Window Inspection Scheme**

The Code of Practice for Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme (the Code), which is being drafted, will be a technical document which provides guidelines on technical standards and procedural requirements for the RI and QP to carry out inspection of buildings and windows, and supervision of repair works under the Mandatory Building Inspection Scheme (MBIS) and Mandatory Window Inspection Scheme (MWIS). It also provides guidelines on technical standards for the RC to carry out the necessary repair works under the MBIS and MWIS.

The scope and contents of the Draft Code are outlined below:

1. Introduction

Under the MBIS, building owners are required to appoint a Registered Inspector (RI) to carry out inspection and Registered Contractor (RC) to carry out any necessary rectification and repair works for their buildings under supervision of an RI upon receipt of a notice served by the Building Authority (BA) under the BO. Under the MWIS, building owners are required to appoint a Qualified Person (QP) to carry out inspection and an RC to carry out any necessary repair works for the windows in their buildings under supervision of a QP upon receipt of a notice served by the BA under the BO. The window repair works may be carried out by the QP appointed for the window inspection provided that he is also an RC.

The Code mainly covers the following aspects:

- (i) duties of RI, QP and RC;
- (ii) inspection and assessment;
- (iii) detailed investigation;
- (iv) rectification and repair criteria and methodology;
- (v) supervision and control; and
- (vi) reporting.

Mandatory Building Inspection Scheme

2. Duties of RI and RC

The duties of RI are specified in the Code, viz carry out personal inspection, provide proper supervision, ensure the repair materials and their use are in compliance with the BO and relevant standards, ensure the repair works is safe and render the building safe, notify the BA and owners of any case of emergency, contravention of the provision of the BO, appointment of RI, and RC etc., submission of relevant documents to the BA and owners. The duties of the RC to carry out repair works in accordance with the BO and relevant standards, and ensure that the building and windows have been rendered safe are specified in the Code.

(a) Personal Inspection

RI are required to carry out personal inspection. Daily inspection records should be kept, in which details including the time and date of inspections, locations and items or parts of buildings that have been inspected etc. Those daily inspection records shall be submitted to the BD upon completion of the inspection with the inspection report. The RI shall certify in the certificate of inspection that the inspection has been carried out by him personally.

(b) Notification to Building Authority and Building Owners

The RI are required to notify the BA of any cases of emergency, contravention of the BO, appointment of RI and RC. Cases of emergency may include emergencies relating to dilapidation of the building and/or emergency constituting health hazard (e.g. loose external rendering/finishes/wall tiles, spalled/loose concrete elements with danger of falling from height and posing a risk to the public, extraordinary tilting or movement of building, dangerous/dislodged signboards with danger of falling from height and posing a risk to the public, and defective/choked drainage with serious environmental nuisance,). Apart from notifying the BA, the RI is also required to alert owners and occupants of the same for their knowledge and benefits. Moreover, the RI are required to provide a

copy of the inspection report and inform owners of the items that require regular maintenance.

3. Inspection and Assessment

(a) Scope

When a building is selected to be a target building under the MBIS, inspection shall cover the common parts (except for areas within private premises), external walls, projections as prescribed in the Building (Inspection and Repair) Regulation, and signboards. Nevertheless, inspection of common parts shall cover inspection of common drains in the non-common parts of a building.

The scope of inspection shall cover the following building elements:

(i) External elements and other physical elements

External walls and associated elements (e.g. curtain walls, fence walls, skylight, cladding, tiling, rendering, metal gates etc), projections (e.g. window canopies, drying racks and structures supporting building service installations) and signboards.

(ii) Structural elements;

Building structures (e.g. projecting cantilevered structures, transfer structures, columns, walls, beams, slabs, staircases and their finishes etc), projections (e.g. balconies, verandahs and planter boxes), unauthorised alteration and addition to structural elements.

(iii) Fire safety elements;

Means of escape, means of access for fire fighting and rescue, fire resisting construction, and unauthorized alterations and additions or change in use affecting the fire safety (e.g. structures on refuge floors, unprotected openings at enclosure walls of exit routes or compartment walls, floors and ceiling, change in use for storage

of hazardous materials)

(iv) Drainage system;

Drainage system in common parts, located at external walls, common drains within common pipe ducts and underground and above-ground common drainage system, and unauthorized alterations and additions affecting drainage system (e.g. Misconnection of foul or waste water to the surface water drainage system or discharge of foul or waste water to external parts of the building or open areas)

(v) Unauthorised building works (UBW).

UBW shall cover those erected on external walls, in the common parts (including those on the external ground, open space, gardens, playgrounds, private streets and access roads) as well as those on roof, podium, yard or lane etc.

(b) Records and Reference Standards

The RI are required to retrieve from the Buildings Department (BD) approved plans, plans and details of minor works commenced or carried out under the simplified requirements, plans and documents submitted to the BA under section 39C of the BO so as to gain a clear understanding of the overall building design and construction including subsequent alteration and addition. The RI shall exercise professional judgment to identify any unusual construction and areas of concern.

In general, reference standards for inspection and repair works shall be the statutory standards at the time when the building was constructed or subsequent enhanced standards as required by the law.

(c) Inspection Requirements

Whilst visual and non-intrusive inspection methods are normally sufficient for the purpose of building inspection, RI are allowed to

exercise professional judgment in adopting the most appropriate method of inspection. This approach does not only allow professionals to exercise their judgment based on building specific issues such as degree of dilapidation, site situation etc., it also caters for adaptation of advanced technology and methodology where appropriate. The Code also draws the RI's attention to certain typical building defects and provides the RI with guidelines for conducting building inspection.

For structures that pose higher risk to the public such as cantilevered projecting structures and transfer structures, the Code specifies the minimum inspection percentages of such structures that are concealed.

The RI shall determine the critical defects or deficiencies that pose an obvious danger to the safety of the occupants or the public. The RI shall notify the BA immediately and alert the occupants and owners of any case of emergency in relation to building safety revealed during the course of building inspection and supervision of building repair works.

The RI shall conduct visual inspection to identify and record all UBW, including signs of suspected subdivision of flats, as far as practicable and indicate clearly in the Inspection Report if any UBW would obstruct the carrying out of any inspection and subsequent repair works.

(d) Follow-up Action

The RI shall assess the conditions of the elements inspected and make recommendations on the follow-up action based on the inspection findings and professional judgment. This includes providing proposals for the repair works, in the Inspection Report, and any urgent action if necessary. Where defects extend from common parts or external walls to private premises, the RI shall make all efforts to ascertain the extent of the defects. As the RI cannot enter private premises for inspection without co-operation of the premises' owners, the RI may record details of defects, which extend from common parts or external walls to private premises, in the inspection report for BD's follow-up actions.

4. Detailed Investigation

(a) Scope

Detailed investigation may be required where there are serious defects, not arising from normal deterioration, constituting structural instability or serious health hazard, and the extent or cause of the defects cannot be ascertained in the inspection. The RI should exercise professional judgment to determine whether a detailed investigation is required. They should also exercise professional judgment in adopting the most appropriate investigation method.

The Code draws the RI's attention to certain critical structural or drainage defects which may warrant a detailed investigation, which include serious structural cracks (e.g. flexural, diagonal, tensile and helical cracks), excessive deformation, extensive spalling and serious corrosion of structural elements, misconnection of drain pipes, and defective underground drains.

Apart from visual inspection, depending on the situation, various destructive and non-destructive tests may be adopted for detailed investigation (e.g. hammer-tapping, carbonation test, test on chloride and cement content, coring and rebound hammer test, covermeter survey, measurement of section loss, electrochemical potential measurement, dye test, smoke test and CCTV survey).

(b) Safety and Health Hazard Assessment

Based on the detailed investigation results, the RI shall conduct assessment to ascertain the safety level of the building element concerned and propose the corresponding follow-up actions. Guidelines are given to the RI on the evaluation of safety level of a structural element by determining its factor of structural performance (FSP). FSP of a structural member is defined as the ratio of the limit state resistance of the structural member and the factored load effects. The limit state resistance and factored load effects shall be determined with reference to recognized standards taking into consideration the

requirements of loadings, strength and properties of materials, and partial safety factors.

If RI is not certain about the material properties, worst credible strength (WCS) may be used if an initial assessment using characteristic values has shown that a structural element may be incapable of carrying the full assessment loading; a structure suffers from damage or deterioration resulting in the actual strength being less than the characteristic values; or characteristic values adopted in the design cannot be retrieved. The WCS at a location may be taken as the lower-bound to the estimated in-situ concrete strength, which can be determined in accordance with the equation given below:

$$WCS = \frac{\sum_1^n f_c}{n} \left(1 - \frac{0.12}{\sqrt{n}} \right)$$

where f_c is the strength of individual specimen

n is the number of test specimens for determination of WCS

Where the safety level of structural elements is determined by evaluation of FSP, and the limit state resistance of the structural element is found to be less than the factored load effects, the RI shall report to the BA immediately and carry out emergency remedial works.

When blockages or defects in underground drains are detected in private streets or lanes accessible to the public and such blockages or defects cause health hazard or danger to the public, the RI shall take remedial action urgently. If urgent remedial action cannot be taken, the RI shall report to the BA immediately

(c) Detailed Investigation Proposal

When the RI intends to conduct a detailed investigation, he shall submit notification of his intention and a detailed investigation proposal to the BA prior to commencement of the detailed

investigation. Detailed investigation shall not be conducted until the corresponding investigation proposal has been accepted by the BA.

The Code highlights essential contents of a detailed investigation proposal for the RI's reference. They include purpose, scope, method and justification of the detailed investigation.

5. Rectification and Repair

(a) Scope

Upon completion of the inspection, assessment and detailed investigation, if necessary, the RI shall formulate the appropriate rectification and repair proposals for making good all deficiencies and defects. In general, reference standards for repair works shall be the statutory standards at the time when the building was constructed or subsequent enhanced standards as required by the law if the relevant enhancement works have been completed at the time of inspection.

Where the rectification or repair works are neither exempted building works nor minor works carried out under the simplified requirements, the BA's prior approval of plans and consent to the commencement of works are required.

(b) Selection Criteria for Repair Method

RIs are required to select appropriate repair methods taking into account the condition of the elements concerned, health and safety requirements, durability, accessibility, compatibility of repair materials and method of application with the substrate and parent structure etc.

Whilst the Code provides the RI with the technical standards for commonly used methods of repair (e.g. material strength and durability, compatibility with parent materials, fire rating and performance, corrosion resistance, effects on the structure during and after repair works, surface preparation of parent structure, load-carrying capacity) and proof tests (e.g. magnetic particle inspection and ultrasonic examination of welds, mill certificate, pull-out test, ball test, air test,

smoke test, water test, CCTV), RI are allowed to exercise professional judgment in adopting the most appropriate method of repair and proof tests. This approach does not only allow professionals to exercise their judgment based on building specific issues such as degree of dilapidation, site situation etc., it also caters for adaptation of advanced technology and methodology where appropriate.

The rectification and repair works shall make the building safe until the next cycle of inspection in ten years. However, some components may require regular maintenance to ensure the repair can last until the next inspection cycle, these components shall be highlighted in the Inspection Report and the owners shall be informed accordingly. The RI are required to highlight to the owners the need of regular maintenance of certain components between inspections.

6. Supervision and Control

The RI are required to provide proper supervision and control during the course of rectification and repair works for ensuring material quality, workmanship and safety. The supervision and control covers adequate measures to control on the sequence of rectification and repair works, erection and maintenance of bamboo scaffolds, and to ensure that the rectification and repair works are carried out in accordance with the inspection findings of the RI.

In response to the community's concern on the standard and quality of the repair works, RI are required to carry out personal supervision for certain critical stages of repair works (e.g. examining substrate prior to laying of finishes and first trial bedding mortar for external elements, conducting pull-off tests, examining reinforcement, replacing of structural elements, non-destructive test for welds, CCTV survey etc.) at such frequency and extent as he considers appropriate to ensure that the works are prepared, carried out and completed to the required standards. Defects and deficiencies mentioned in the Inspection Report and those identified during the repair stage shall be repaired or rectified. The Code provides details on the qualification and experience requirements of the RI's representatives who would assist the RI in supervising the carrying out of repair works at non-critical stages.

When carrying out rectification and repair works, proper protection and safe passage for the workers, occupants and the public must be provided and maintained at all times. Debris should be removed regularly to avoid overloading the structures or obstructing the passage for the occupants and the public.

The RC should communicate with the management company, owners corporation and owners of the building for ensuring security. The RC should post notice on conspicuous parts of the building to remind owners and occupiers to enhance security of their premises.

7. Reporting

The Code provides guidelines on the documents that the RI needs to submit to the BA, including Inspection Report, Certificate of Inspection, Completion Report and Certificate of Completion. The essential contents of the Inspection Report and Completion Report are highlighted in the Code. As MBIS would only require repair works that are adequate to render the building safe, any additional works that the owners may wish to carry out together with the inspection and repair works under the MBIS should be distinguished from the basic repair works.

Mandatory Window Inspection Scheme

8. Duties of QP and RC

The duties of QP are specified in the Code, viz carry out personal inspection, provide proper supervision, ensure the repair materials and their use are in compliance with the BO, ensure the repair works is safe and render the building safe, notify the BA and owners of any case of emergency, appointment of QP and RC etc., submission of relevant documents to the BA and owners. The duties of the RC to carry out repair works in accordance with the BO, and ensure that the building and windows have been rendered safe are specified in the Code.

(a) Personal Inspection

The QP or QP's representative shall certify in a specified form that the inspection has been carried out by him personally.

(b) Notification to Building Authority and Building Owners

The QP are required to notify the BA of any cases of emergency, and appointment of QP and RC. Cases of emergency may include emergencies relating to dilapidation of windows (e.g. dangerous/dislodged signboards with danger of falling from height and posing a risk to the public). Apart from notifying the BA, the QP is also required to alert owners and occupants of the same for their knowledge and benefits. If different QPs are engaged for inspection and supervision of repair, the QP responsible for inspection are required to submit a copy of the inspection report to the BA and provide the same to the owners and inform them of the items that require regular maintenance.

9. Inspection and Repair

All components of window elements shall be inspected from the interior of private premises and common parts. All windows shall remain safe until the next cycle of inspection in five years. Whilst the repair works are required to be safe until the next cycle of inspection, regular maintenance such as light lubrication of hinges and clearing of dust and dirt at hinges and tracks are required to maintain safety until the next inspection in five years. The QPs are required to highlight to the owners the need of regular maintenance of certain components between inspections.

10. Supervision and Control

The QP are required to provide proper supervision and control during the course of rectification and repair works for ensuring material quality, workmanship and safety. The supervision and control covers adequate measures to control on the sequence of rectification and repair works, erection and maintenance of bamboo scaffolds and to ensure that the rectification and repair works are carried out in accordance with the inspection findings of the QP.

11. Reporting

The Code provides guidelines on the documents that the QP needs to submit to the BA, including Inspection Report where appropriate and Certificate of Window Inspection and Completion of Works.

Buildings Department

February 2011

DRAFT

Buildings Department

Practice Note for Registered Inspectors and Qualified Persons **ADV-XX**

Best Practices on Tendering Procedures for Engagement of Registered Inspectors/Qualified Persons and Registered Contractors under the Mandatory Building Inspection Scheme (MBIS) and the Mandatory Window Inspection Scheme (MWIS)

Introduction

Through the implementation of the Operation Building Bright (OBB) jointly launched by the Government, the Hong Kong Housing Society (HKHS) and Urban Renewal Authority, valuable experience had been gained in educating the public, including both building owners and building professionals, in adopting the appropriate engagement procedures. In close liaison with the Independent Commission Against Corruption, guidelines on maintenance works (“the Guidelines”) have been issued by the HKHS and URA to advise on the roles and responsibilities of the parties involved, the best practices against tender-rigging and proper procedures for selection and management of consultants and contractors. The Guidelines are available for reference from the website of HKHS (http://www.hkhs.com/chi/business/pdf/OBB_MTC_guide_2round.pdf).

Best Practices on Tendering Procedures

2 Registered Inspectors (RIs) and Qualified Persons (QP) are strongly advised to adopt the best practices on tendering procedures as stipulated in the Guidelines when arranging repair works under the MBIS or MWIS. The following are highlighted for particular attention:

(A) Engagement of Registered Inspector (RI) or Qualified Person (QP)

- (a) Any RI/QP who is interested in the tender should make reference to the Guidelines and provide a declaration signed by the RI/QP and his company when submitting the tender (even if no such requirements are included in the documents of invitation to tender), which confirm that before any

tendering result is announced by the owner(s), he, the directors and employees of his company, agents and sub-consultants have not and will not:-

- disclose tender price to any persons other than the owner;
- adjust the tender price by arrangement with any other persons;
- make any agreement on tendering with any other persons; and
- make any fraud in any way or with any other persons in respect of the tender.

(b) Upon confirmation of appointment, the RI/QP should submit a letter signed by himself to the owner(s), in which he should declare if he has or has not been convicted of any offence regarding corruption, fraud etc. in any projects. Also, irrespective whether there is any ethical commitment clauses in the contract, the RI/QP should also submit a declaration signed by himself and his company on compliance with the following ethical commitments:-

- The RI/QP , the directors and employees of his company, agents and sub-consultants are prohibited from offering, soliciting or accepting any advantages as defined in section 2 of the Prevention of Bribery Ordinance, Cap 201 when conducting any business in relation to the contract;
- The RI/QP, the directors and employees of his company, agents and sub-consultants must in written form disclose any conflict of interest or potential conflict of interest, whether personal or financial, in relation to their duties under the contract. After such disclosure, all reasonable steps or measures will be taken to alleviate or remove such conflict of interest;
- The RI/QP , the directors and employees of his company, agents and sub-consultants are prohibited from engaging in any business or works (with or without pay or salaries) that may induce conflict of interest, whether personal or financial, in relation to their duties under the contract; and
- The RI/QP and his company will make all measures as necessary to protect any confidential/ privileged information or data entrusted to the RI/QP , the directors and employees of his company, agents and sub-consultants by or on behalf of the owner(s) from being divulged to a third party other than those allowed in the contract.

(B) Engagement of Registered Contractor

When arranging tendering for prescribed repair, the RI/QP should also observe the best practices stipulated in the Guidelines. The RI/QP should ensure that all tendering procedures should be conducted by open tendering. In addition, all tender documents should be issued on behalf of the owner(s) and any details of the RI/QP and his company should not be disclosed. Any contractors who submit tender should be required to submit a declaration on integrity and anti-tender-rigging as per the Guidelines. The contract should be incorporated with ethical commitment clauses and upon appointment, the contractor to be appointed should be required to submit a declaration on compliance with the ethical commitment clauses and also a confirmation letter declaring if they have or have not been convicted of any offence regarding corruption, fraud etc. in any projects.

3. This practice notes should be read in conjunction with PNAP ADV-18 “Corruption Prevention”. It is reminded that any RI/QP/registered contractors convicted of offence concerning corruption or fraud in relation to building works may be subjected to disciplinary actions under the Buildings Ordinance.

(AU Choi-kai)
Building Authority

Ref: BD XX

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