

Corruption Prevention

Recently, there have been a growing number of corruption cases in the construction industry involving building works in both the private and public sectors. The Buildings Department is concerned that the spread of corruption in the construction industry might lead to building works failing to comply with the Buildings Ordinance. The purpose of this practice note is to draw the attention of Registered General Building Contractors (RGBCs) and Registered Specialist Contractors (RSCs) to the need to combat corruption in the construction industry and the proper way to handle situations if they or their staff are offered a bribe.

2. RGBCs and RSCs appointed in respect of building works or street works are required under the Buildings Ordinance to give continuous supervision to ensure that the building works or street works are constructed in accordance with the provisions of the Buildings Ordinance and the approved building plans. Very often, site staff are employed to assist in these duties. It is important for the RGBCs and RSCs to explicitly prohibit their staff from soliciting or accepting advantages from subcontractors and suppliers or offering advantages to other people in relation to their work. In this connection, it is advisable that RGBCs and RSCs should develop a company Code of Conduct and promulgate staff instructions relating to these prohibitions. When a RGBC/RSC or his staff is offered a bribe, he should report **immediately** to the ICAC. The telephone number for this purpose is :

ICAC : 2526 6366 (24 hours)

3. A bribe may not always be money. It can be a loan, a gift, a favour, an offer of employment or any other advantage. The full definition of the term "advantage" is contained in the Prevention of Bribery Ordinance, Cap. 201. An extract of the definition is reproduced at Appendix I.

Conflict of Interest

4. It is a common practice of the construction industry for RGBCs or RSCs to sublet or subcontract certain building or street works to other contractors. To avoid conflict of interest, the RGBCs and RSCs should not sublet or subcontract any works to their staff who are required to supervise the carrying out of such works. Equally works should not be sublet or subcontracted to a body corporate and/or partnership, the director, manager, partner or other officer of which are staff of the RGBCs and RSCs who are required to supervise the works. If such subletting or subcontracting arrangement exists, the supervisory staff should be replaced.

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5. With effect from 2 July 2001, all ground investigation works, predrilling, interface core-drilling, post-installation drilling and proof test core-drilling must be carried out by a RSC in the Ground Investigation Field Works category. The RSC who is appointed to carry out proof test core-drilling for certain foundation works, as required under Building (Construction) Regulation 30, should make a declaration on its connection with the contractor who is appointed to carry out the foundation works. Such declaration should include whether or not the RSC is a holding/subsidiary/associated company of the foundation contractor, or has financial relationship with it (e.g. cross-directorship), or has financial interest in the foundation works.

Advisory Services Group of ICAC

6. The ICAC has an Advisory Services Group dedicated to provide free and confidential corruption prevention advice to private companies. The Group also assists companies in their development of company Code of Conduct and staff instructions. RGBCs and RSCs interested in promoting corruption prevention practices in their companies and developing related instructions for their staff are invited to call the Group's hotline Tel. No. 2526 6363.

(C M LEUNG)
Building Authority

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Under the Prevention of Bribery Ordinance, Cap 201, “advantage” means :

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e).

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