



THE CONTRACTS GROUP NEWSLETTER

Commercial, Contractual & Management Consultants to the Construction Industry

Sept 2012

DRA – How Effective?

We are in full support of the Dispute Resolution Advisor system, but how effective is the system as operated by the Hong Kong Government Works Departments? Could it be more effective? We believe it could be.

In our view the DRA is a part of the team from commencement and should remain part of the team until the account is finalised. The tenure of the DRA should not automatically cease at the end of the Maintenance Period.

The Architectural Services Department ('ArchSD') form goes some way to addressing this. This form automatically extends the tenure of the DRA beyond the Maintenance Period for the resolution of any dispute for which a Notice of Dispute has been served.

We also believe the role and authority of the DRA should be further considered. The DRA will attempt to avoid disputes arising, but when a dispute does arise there is no specific provision requiring the DRA to attempt to resolve the dispute. However, in the form used by ArchSD, where a Notice of Dispute is served the DRA shall within 14 days attempt to resolve the dispute and if it is not resolved the DRA shall within a further 3 days provide a written report.

This report will contain a recommendation only if requested by both parties, and any recommendation is non-binding. We think this could be strengthened. Nevertheless, any report must be helpful. Why is it not required by other Works Departments?

We think that the provisions adopted by ArchSD, although not a complete answer, should, as a starting point, be considered for incorporation in the other DRA forms.

DRA's in The Contracts Group include Chris Morgan, Colin B. Lee and Keith Salisbury.

Hong Kong Construction Industry Statistics...

Census & Statistics Department's construction output statistics for the second quarter ('Q2') of 2012 show:

- The gross value of construction works performed by main contractors increased by 33.6% from a year earlier to HK\$39.2 billion. In real terms there was a 25.8% increase after removing the effect of price changes.
- Private sector sites were up 53.7% for Q2 of 2012 from a year earlier at HK\$13.0 billion.
- Public sector sites increased by 36.0% for Q2 of 2012 to HK\$12.6 billion.
- Gross value of construction works at locations other than construction sites (maintenance, decoration, repair, electrical installations, etc.) was up 17.1% for Q2 of 2012 at \$13.6 billion.
- Residential building projects accounted for the largest share in gross value for Q2 at HK\$10.0 billion (up 55.2%), with transport projects coming in second at \$6.5 billion—up 70.8% from a year earlier.

Events...

The SCLHK are organising a talk entitled '**Construction Document Preparation – Protecting the Employer without being unfair to the Contractor**'. The talk aims to identify the common causes of disputes; how to anticipate and address them in the contract; and will also include a number of suggestions and describe the manner in which they have worked in practice and can work alongside the better-known standard forms of contract. Date: **Thursday, 27 September 2012**. Time: 6.00pm for 6.30pm. Venue: HKIAC. 38/F, Two Exchange Square, Central.

Project News...

A **HK\$4.57 billion** contract has been awarded to the **Samsung - Hsin Chong Joint Venture** on the **Shatin to Central Link MTRC project**. The contract is for the Mau Tai Wai and To Kwa Wan Stations and 1.6km of railway tunnels, and is the first civil engineering contract to be awarded on this project. The tunnels will be excavated using tunnel boring machines to minimise the project's impact on adjacent buildings in the densely populated Kowloon City area. The stations will be constructed using the cut-and-cover method and will open to the public in 2018.

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The **largest NEC contract ever awarded** by the HK Government has been signed between Drainage Services Department and Chun Wo Construction. The contract is for construction of the Happy Valley Underground Stormwater Storage Scheme, and is valued at **HK\$678 million**. Completion is expected in early 2018. Over 20 new NEC construction and consultancy contracts valued at over **HK\$8 billion** are planned by the HK Government in the coming three years, and the Permanent Secretary for Development (Works) believes utilisation of the NEC contracts will reduce costs of public projects and increase efficiency.

Plus 3 Association...

We are pleased to announce an association with **Plus Three Consultants**, who have their head office in Kuala Lumpur, Malaysia. The Memorandum of Understanding between our companies enables us to work together, expanding our regional capacity, and allowing faster responses to our client's requirements throughout the Asia Region.

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