

Carrying out Procurement for Clients and Prevention of Bid-rigging

Code of Conduct

(Revised Edition)

Code No.: C11/2022



Preamble

The following code of conduct ("Code") is issued by the Property Management Services Authority ("PMSA") pursuant to section 5 of the Property Management Services Ordinance ("PMSO") and contains practical guidance for the purposes of section 4 of the PMSO (disciplinary offences). Although a licensee¹ does not incur a legal liability only because the licensee has contravened a provision of the Code, the Code is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code may be relied on as tending to establish or negate a matter that is in issue in the hearings.

Background

2. Licensees, during the provision of property management services ("PMSs") for properties, may carry out procurement in respect of the supply of goods or provision of services for clients².
3. When licensees carry out procurement³ for clients, they have to comply with the Building Management Ordinance (Cap. 344) ("BMO") and the Code of Practice on Procurement of Supplies, Goods and Services ("Code of Practice")⁴ issued by the Secretary for Home and Youth Affairs under the BMO.

¹ The term "licensee" means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

² The term "client" has the same meaning as defined in section 16 of the PMSO, i.e. "in relation to a property for which a licensed PMC provides property management services, means— (a) the owners' organization of the property; and (b) the owners of the property who pay or are liable to pay the management expenses in respect of the services". According to such definition, a tenant is not a client.

³ According to sections 2D and 2E of the Building Management Ordinance (Cap. 344) ("BMO"), the three procurement categories are stipulated as below:

(a) Type 1 High-value Procurement:

- (i) the procurement value exceeds, or is likely to exceed, \$200,000;
- (ii) the procurement is not type 2 high-value procurement; and
- (iii) the procurement is not large-scale maintenance procurement

(b) Type 2 High-value Procurement:

- (i) the procurement value exceeds, or is likely to exceed, 20% of the average annual expenditure for the last 3 financial years ("reference amount"); and
- (ii) the procurement is not large-scale maintenance procurement

(c) Large-scale Maintenance Procurement:

- (i) the procurement is mainly for repairing, replacing, maintaining or improving the common parts of the building;
- (ii) the average procurement value per flat in the works project exceeds, or is likely to exceed, \$30,000; and
- (iii) the procurement is not the procurement of any cleaning or security services for the building, or any building management services provided by the manager of the building
(for details please refer to sections 2D and 2E of the BMO)

⁴ The Code of Practice is issued by the Secretary for Home and Youth Affairs under section 44(1)(a) of the BMO.



4. Moreover, bid-rigging occurs if two or more bidders that would otherwise be expected to compete, secretly agree that they will not compete with one another for particular projects during the procurement process. For example, they may agree among themselves which bidder will win the bid, and the outcome of the process is therefore rigged. Bid-rigging is inherently a serious anti-competitive conduct and will contravene the Competition Ordinance (Cap. 619)⁵.

Code of conduct

- Code:** A(1) A licensed PMC has to ensure that the procurement process is competitive, fair and accountable⁶ when carrying out procurement for clients.
- A(2) When a licensed PMC carries out procurement for clients, the licensed PMC (including its employees) must not solicit or accept any unauthorized advantage or hospitality that would impair its impartiality. A licensed PMC (including its employees) has to, as far as practicable and to the best of its knowledge, declare conflict of interest arising from any financial (including investments) or personal (including family members or relatives) relationship with the suppliers or service providers bidding for contracts.

⁵ The explanation of bid-rigging is extracted from the “Fighting bid-rigging” brochure published by the Competition Commission and is consistent with the definition of bid-rigging stipulated in Section 2 of the Competition Ordinance.

⁶ For details, please refer to section 3.3 of the Building Management Toolkit issued by the Independent Commission Against Corruption, the Home Affairs Department, the Hong Kong Housing Society, jointly with the Law Society of Hong Kong, the Hong Kong Institute of Surveyors, the Hong Kong Institute of Housing, the Housing Managers Registration Board, the Chartered Institute of Housing Asian Pacific Branch, and the Hong Kong Association of Property Management Companies : https://cpas.icac.hk/UploadImages/InfoFile/cate_43/2019/280eaeaa-d72a-4b9c-be2f-37fb305c86ec.pdf

A(3) Under the following circumstances, a responsible person⁷ for the procurement (i.e. the licensed PMC as manager⁸ or a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with the procurement) is required to make a declaration in the specified form⁹ (refer to forms A-D (as the case may be) in **Annex 1**) to a specified person¹⁰ –

- (a) If a responsible person for the procurement becomes aware that, after the initiation decision¹¹ is made for the procurement but before a contract is entered into for it, the responsible person has any pecuniary and/or other personal dealing and/or connection¹² with a member of the management committee¹³ or owners' committee, the responsible person has to, as soon as reasonably practicable after becoming so aware, declare the dealing and/or connection¹⁴.

⁷ According to section 2(1) of the BMO, **responsible person**, in relation to the procurement of any supplies, goods or services for a building –

(a) means –

(i) the manager of the building; or

(ii) a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with substantive matters in respect of the procurement, regardless of whether the directions or instructions are made to the person directly or indirectly; and

(b) does not include a member, secretary or treasurer of the management committee in respect of the building.

⁸ According to section 2(1) of the BMO, "**manager**, in relation to a building, means –

(a) the DMC manager; or

(b) any other person who for the time being is, for the purposes of the deed of mutual covenant, managing the building.

⁹ According to sections 28M and 34EA of the BMO, the Secretary for Home and Youth Affairs may specify the form of any declaration required for the purposes of Schedule 6B and Schedule 7 (for details, please refer to paragraphs 11 and 24 of Schedule 6B and paragraphs 24 and 33 of Schedule 7 to the BMO).

¹⁰ For details, please refer to paragraphs 12 and 25 of Schedule 6B and paragraphs 25 and 34 of Schedule 7 to the BMO.

¹¹ According to section 2 of the BMO, **initiation decision**, in relation to the procurement of any supplies, goods or services –

(a) means the decision that the procurement is to be conducted; and

(b) includes a decision that potential suppliers are to be approached for the procurement.

¹² According to section 2(5) of the BMO, a person (**Person A**) has a connection with another person (**Person B**) if –

(a) Person A is a spouse of Person B;

(b) Person A, or a spouse of Person A, is a brother, sister, uncle, aunt, cousin, nephew, niece, lineal ancestor or lineal descendant of Person B;

(c) Person A and Person B are co-owners of a share in the relevant building;

(d) Person A is a body corporate –

(i) the composition of the board of directors of which is controlled by Person B;

(ii) more than half of the voting power in or in relation to which is possessed by Person B;

(iii) more than half of the issued share capital of which is held by Person B;

(iv) of which Person B is a director; or

(v) of which Person B is an associated company as defined by section 2(1) of the Companies Ordinance (Cap. 622);

(e) Person A and Person B are partners in a partnership;

(f) Person A is an employee or agent of Person B; or

(g) Person A is otherwise accustomed or obliged to act in accordance with the directions or instructions of Person B.

¹³ **Management committee** means a management committee appointed under section 3, 3A, 4 or 40C of the BMO (see section 2(1) of the BMO).

¹⁴ For details, please refer to paragraph 9 of Schedule 6B and paragraph 22 of Schedule 7 to the BMO.



- (b) If a responsible person for the procurement becomes aware that, before a contract is entered into for the procurement, the responsible person has any pecuniary and/or other personal interest in a tender submitted for the procurement; and/or any connection with a person who has submitted a tender for the procurement, the responsible person has to, as soon as reasonably practicable after becoming so aware, declare the interest and/or connection¹⁵.
 - (c) For large-scale maintenance procurement¹⁶, every responsible person for the procurement has to, before the first tender acceptance meeting¹⁷ is held, declare that the responsible person does not have any pecuniary and/or other personal dealing and/or any connection with a member of the management/owners' committee except for the dealing (if any) and/or connection (if any) so declared¹⁸.
 - (d) If any tender has been submitted for the large-scale maintenance procurement, every responsible person for the procurement has to, before the first tender acceptance meeting is held, declare that the responsible person –
 - (i) does not have any pecuniary and/or other personal interest in the tender except for the interest so declared (if any); and
 - (ii) does not have any other or any connection with a person who has submitted the tender except for the connection so declared (if any)¹⁹.
- A(4) If there is a responsible person for the procurement other than the licensed PMC acting as manager, the licensed PMC acting as manager has to require the responsible person to comply with the declaration requirement aforementioned in paragraphs A(3)(a)-(d) of this Code (if applicable) and use the manager's best endeavors to prevent any contravention of the requirement concerned by the responsible person²⁰.

¹⁵ For details, please refer to paragraph 10 of Schedule 6B and paragraph 23 of Schedule 7 to the BMO.

¹⁶ See footnote 3(c)


¹⁷ According to section 2 of the BMO, **first tender acceptance meeting**, in relation to any large-scale maintenance procurement, means –

- (a) if there is a corporation – the first general meeting of the corporation convened under Schedule 3; or
- (b) if there is no corporation – the first meeting of owners convened under the deed of mutual covenant, at which the question whether a tender submitted for the procurement is to be accepted or not is considered.

¹⁸ For details, please refer to paragraph 22 of Schedule 6B and paragraph 31 of Schedule 7 to the BMO.

¹⁹ For details, please refer to paragraph 23 of Schedule 6B and paragraph 32 of Schedule 7 to the BMO.

²⁰ For details, please refer to paragraphs 22, 23, 31 and 32 of Schedule 7 to the BMO.

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- A(5) Within 7 days after the date on which the declaration is made, the licensed PMC has to display a notice of the declaration in a prominent place in the property concerned for at least 7 consecutive days²¹.
- A(6) If a declaration under paragraphs A(3)(a) and (b) of this Code has been made, the licensed PMC has to ensure that a copy of the declaration is produced to the management committee/owners at the first procurement management committee/owners meeting since the making of the declaration, and a copy of the notice of the declaration is attached to the minutes of the proceedings at the meeting²².
- A(7) For every declaration that has been made under paragraphs A(3)(c) and (d) of this Code, the licensed PMC acting as manager has to ensure that a document in respect of the declaration that complies with paragraph 35(2) of Schedule 7 to the BMO is attached to the minutes of the proceedings at the first tender acceptance meeting^{23,24}.
- A(8) The licensed PMC has to keep a copy of the declaration during the period of 6 years after the date on which the procurement contract is entered into²⁵, and permit a specified person²⁶ to inspect the copy at any reasonable time.
- A(9) A responsible person for the procurement who has made a declaration must not participate in any assessment of tenders submitted for the procurement or any negotiation or other activity relating to the procurement (unless exempted by a management committee/owners' corporation²⁷/owners resolution)²⁸.

²¹ For details, please refer to paragraph 13 of Schedule 6B and paragraph 26 of Schedule 7 to the BMO.

²² For details, please refer to paragraph 14 of Schedule 6B and paragraph 27 of Schedule 7 to the BMO.

²³ See footnote 17

²⁴ For details, please refer to paragraph 26 of Schedule 6B and paragraph 35 of Schedule 7 to the BMO.

²⁵ For details, please refer to paragraphs 15(1) and 27(1) of Schedule 6B and paragraphs 28(1) and 36(1) of Schedule 7 to the BMO.

²⁶ For details, please refer to paragraphs 15(2) and (3), 27(2) and (3) of Schedule 6B and paragraphs 28(2) and (3), 36(2) and (3) of Schedule 7 to the BMO.

²⁷ An owners' corporation means a corporation registered under section 8 of the BMO.

²⁸ For details, please refer to paragraph 16 of Schedule 6B and paragraph 29 of Schedule 7 to the BMO.

Bidding for service contracts

- Code:** B(1) A licensed PMC is not to exercise or participate in “serious anti-competitive conduct”²⁹ when bidding contracts for PMSs.
- B(2) After a licensed PMC has successfully won a tender, it has to, for the property for which PMSs are provided by it, adopt appropriate measures to minimise the risk of “serious anti-competitive conduct” such as bid-rigging during procurement.

Raising employees’ awareness of procurement and establishing internal procedure

- Code:** C(1) A licensed PMC has to provide proper training for employees to strengthen their awareness of issues (e.g. competitive issues) involved in procurement procedures and procurement process. This helps the employees to formulate appropriate procurement procedures to avoid contravening relevant regulations and to minimize the risk of cartel such as bid-rigging.

Procurement mechanism

- Code:** D(1) Without contravening the BMO and the Code of Practice³⁰, a licensed PMC has to, for the property for which PMSs are provided by it,
- (a) establish a policy by itself (in case there is no owners’ organization); or
 - (b) agree with the owners’ organization (if any)³¹
- on various procurement services, including making purchase by petty cash, quotation and tender in order to proceed with the procurement.

Procurement by petty cash

- Code:** E(1) A licensed PMC has to, for the property for which PMSs are provided by it,
- (a) establish a policy by itself (in case there is no owners’ organization); or
 - (b) agree with the owners’ organization (if any)³²
- on the limit of petty cash to be kept by it to carry out procurement in respect of minor purchases of goods or services for clients.

²⁹ The definition of “serious anti-competitive conduct” is consistent with section 2 of the Competition Ordinance. This includes price fixing, market sharing, output restriction and bid-rigging.

³⁰ See footnote 4

³¹ The guideline / guide or agreement should not affect a licensed PMC as the manager to carry out its duties according to the BMO or the deed of mutual of covenant of the respective property. The term “manager” has the same meaning as that defined by the BMO.

³² See footnote 31

- E(2) A licensed PMC has to, for the property for which PMSs are provided by it, establish a policy by itself (in case there is no owners' organization) or follow the guidelines as agreed with the owners' organization (if any)³³ when carrying out procurement by petty cash for clients.

Procurement by quotation

- Code:** F(1) A licensed PMC has to, for the property for which PMSs are provided by it, establish a policy by itself (in case there is no owners' organization) or follow the guidelines under the agreement formed with the owners' organization (if any)³⁴ when carrying out procurement by quotation for clients.

Procurement by tender

- Code:** G(1) A licensed PMC has to, for the property for which PMSs are provided by it, carry out procurement of goods or services according to the relevant requirement in Sections 28D-28F of and/or Schedule 7 to the BMO³⁵ (i.e. the requirement in paragraphs 12-51 of Schedule 7).

- G(2) Unless under the circumstance where invitation to tender is exempted, if the procurement of any supplies, goods or services belongs to the categories³⁶ below, the procurement has to be conducted by an invitation to tender –

- (a) Type 1 High-value Procurement³⁷;
- (b) Type 2 High-value Procurement³⁸; and
- (c) Large-scale Maintenance Procurement³⁹.

- G(3) For Type 1 and Type 2 High-value Procurement, a licensed PMC has to comply with the tendering requirement stipulated in Schedule 6A to the BMO (i.e. paragraph G(5) of this Code) (refer to the requirement at **Annex 2**) and the declaration requirement stipulated in Part 1 of Schedule 6B to the BMO (refer to paragraphs A(3)(a) and (b) of this Code).

³³ See footnote 31

³⁴ See footnote 31

³⁵ For transitional arrangements on procurement under the Building Management (Amendment) Ordinance 2024 ("Amendment Ordinance"), refer to section 44B of the Amendment Ordinance.

³⁶ For details, please refer to sections 28D(3)(b) and 28E(3)(b) of and paragraphs 12(3)(b) and 13(3)(b) of Schedule 7 to the BMO.

³⁷ See footnote 3(a)

³⁸ See footnote 3(b)

³⁹ See footnote 3(c)

G(4) For Large-scale Maintenance Procurement, a licensed PMC has to comply with the tendering requirement stipulated in Schedule 6A to the BMO (i.e. paragraph G(5) of this Code) (refer to **Annex 2**) and the declaration requirement stipulated in Parts 1 and 2 of Schedule 6B to the BMO (refer to paragraphs A(3)(a)-(d) of this Code).

G(5) Regarding the tendering requirement in paragraphs G(3) and G(4) of this Code, a licensed PMC has to ensure that –

- (a) an invitation to tender issued for the procurement is required to set out clearly the nature of the supplies, goods or services to which the procurement relates⁴⁰ and specify a deadline for tender submission⁴¹.
- (b) a copy of the invitation to tender must be displayed in a prominent place in the property until the deadline for tender submission⁴².
- (c) any tender submitted after the deadline must not be accepted⁴³.
- (d) the number of tenders to be invited complies with the following requirement⁴⁴:
 - (i) for estimated procurement the value of which exceeds, or is likely to exceed \$200,000, an invitation to tender is issued to 5 or more potential suppliers; and
 - (ii) for estimated procurement the value of which exceeds, or is likely to exceed \$10,000, but does not exceed, or is unlikely to exceed \$200,000, an invitation to tender is issued to 3 or more potential suppliers

(Regarding the requirement on the aforementioned minimum number of tenders to be invited, for Type 1 High-value Procurement, such requirement can be waived by a management committee/owners resolution; for Type 2 High-value Procurement and Large-scale Maintenance Procurement, such requirement can be waived by an owners' corporation/owners resolution)⁴⁵.

- (e) for a Type 2 High-value Procurement and Large-scale Maintenance Procurement as to whether a tender is to be accepted or not shall be decided by an owners' corporation/owners resolution⁴⁶.

⁴⁰ For details, please refer to paragraph 2(1)(a) of Schedule 6A and paragraph 17(1)(a) of Schedule 7 to the BMO.

⁴¹ For details, please refer to paragraphs 1 and 2(1)(b) of Schedule 6A and paragraphs 16 and 17(1)(b) of Schedule 7 to the BMO.

⁴² For details, please refer to paragraph 3 of Schedule 6A and paragraph 18 of Schedule 7 to the BMO.

⁴³ For details, please refer to paragraph 4 of Schedule 6A and paragraph 19 of Schedule 7 to the BMO.

⁴⁴ For details, please refer to paragraph 5(1) of Schedule 6A and paragraph 20(1) of Schedule 7 to the BMO.

⁴⁵ For details, please refer to paragraph 5(4) of Schedule 6A and paragraph 20(4) of Schedule 7 to the BMO.

⁴⁶ For details, please refer to sections 28E(2)(c) and 28F(2)(c) of and paragraphs 13(1)(c) and 14(1)(c) of Schedule 7 to the BMO.

G(6) Regarding Large-scale Maintenance Procurement, a licensed PMC acting as manager has to comply with specific procedures at a general meeting of the owners' corporation /an owners' meeting⁴⁷, including:

- (a) In the **Notice of Meeting**, the statement specifying the proposed large-scale maintenance procurement resolution must be titled "**Important Reminder**" in English and "**重要提示**" in Chinese. The Notice of Meeting has to set out clearly the estimated amount to be contributed from the building management fund⁴⁸ and the estimated apportioned amount that each of the owners is to contribute for the procurement⁴⁹;
- (b) At least 5% of the owners or 100 owners (whichever is the lesser) must vote in person in order to pass the resolution concerned⁵⁰; and
- (c) The minutes of meeting must contain a clear record of the total number of votes cast personally and the total number of votes cast by proxy, and if a proposed large-scale maintenance procurement resolution is considered at a meeting of owners, the manager has to, within 28 days after the date of the meeting, supply each of the owners with a copy of the minutes of the meeting⁵¹.

Preparing tender documents

Code: H(1) Apart from complying with paragraph G(5) of this Code, a licensed PMC has to set out clearly the relevant requirements, e.g. a clear description of the required goods, its specifications and criteria that tenderers have to meet, etc. in the relevant tender document.

H(2) A licensed PMC has to include integrity, non-collusion and anti-bid-rigging clauses in the relevant tender document and require tenderers to sign a "Non-collusive Tendering Certificate" when submitting a tender.

⁴⁷ For details, please refer to Schedule 6C (see the requirement at **Annex 3**) and paragraphs 48-51 of Schedule 7 (see the requirement at **Annex 4**) to the BMO.

⁴⁸ According to Schedule 6C to the BMO, **building management fund** means –

(a) a general fund established and maintained by the corporation under section 20(1);

(b) a contingency fund established and maintained by the corporation under section 20(2);

and according to paragraph 48 of Schedule 7 to the BMO, **building management fund** means –

(a) a special fund established and maintained by the manager according to paragraph 4(1) of Schedule 7; or

(b) any fund other than the special fund that is established and maintained by the manager for performing a function under the deed of mutual covenant or the BMO.

⁴⁹ For details, please refer to paragraph 3 of Schedule 6C and paragraph 48 of Schedule 7 to the BMO.

⁵⁰ For details, please refer to paragraph 4 of Schedule 6C and paragraph 49 of Schedule 7 to the BMO.

⁵¹ For details, please refer to paragraphs 50 and 51 of Schedule 7 to the BMO.

Reducing communication between suppliers/tenderers

Code: I(1) A licensed PMC has to, as far as reasonably practicable, adopt measures to avoid communication on the supply of goods concerned, provision of services and tendering matters between potential suppliers/tenderers.

Assessing tender

Code: J(1) A licensed PMC has to formulate the assessment criteria by itself (in case there is no owners' organization) or agree with the owners' organization (if any)⁵² on the assessment criteria, and disclose the assessment criteria in the invitation for tender before arranging the tender. If the assessment criteria are to be amended, the licensed PMC has to record in writing the reasons for the amendment.

J(2) A licensed PMC has to remind the relevant assessment panel:

- (a) the formation of the assessment panel, declaration of conflict of interest and the assessment procedures and mechanism concerned cannot contravene the BMO and the Code of Practice⁵³; and
- (b) to assess the tenders in accordance with the assessment criteria. If the tender assessed as the best according to the assessment criteria is not accepted, the licensed PMC has to remind the relevant assessment panel to provide reasonable causes and make record.

Incorporating protection clauses in contract

Code: K(1) A licensed PMC has to include suitable clauses in the contract with the suppliers or winning tenderers so as to ensure that it has the contractual protection if any illegal acts (including cartel such as bid-rigging) are discovered during the quotation or tendering process.

⁵² See footnote 31

⁵³ See footnote 4

Keeping records

- Code:** L(1) If there is no owners' corporation in respect of the property and a contract is entered into for the procurement of any supplies, goods or services, the licensed PMC must, during the period of 6 years⁵⁴ after the date on which the contract is entered into, keep all the procurement documents⁵⁵.
- L(2) A licensed PMC acting as manager has to, at the written request of not less than 5% of the owners, permit any of those owners or any person appointed by those owners to inspect, at any reasonable time, any document kept by the manager under paragraph 10(2) of Schedule 7 to the BMO⁵⁶, and if a person who is permitted to inspect any document (**requester**) requests, in writing, the manager to supply the requester with a copy of the document concerned, the licensed PMC as manager has to supply the requester with, upon payment of a reasonable copying charge, a hard copy or, without imposing any charge, an electronic copy of the document concerned, within 28 days after the date of the request⁵⁷.

Reporting contravention of procurement procedures and bid-rigging

- Code:** M(1) A licensed PMC has to establish an internal reporting mechanism for employees to report suspected contravention of procurement procedures or bid-rigging.

⁵⁴ For details, please refer to paragraph 10 of Schedule 7 to the BMO.

⁵⁵ According to paragraph 10 of Schedule 7 to the BMO, **procurement document**, in relation to the procurement of any supplies, goods or services –

(a) means a document –

(i) that contains information that enables a person who inspects it to (whether with or without any other document) readily verify the financial liability incurred by the owners for the procurement; or

(ii) that otherwise relates to the procurement, such as a tender document, copy of contract, statement of account and invoice; and

(b) does not include a declaration made under Division 4 [of Schedule 7]

⁵⁶ For details, please refer to paragraph 11(1) of Schedule 7 to the BMO.

⁵⁷ For details, please refer to paragraph 11 of Schedule 7 to the BMO.

Specified Forms under sections 28M and 34EA(a) of the Building Management Ordinance (Cap. 344)

Form	Declaration	Target
Form A	Declaration on HAVING interest(s) or connection(s) for the tenders submitted, before a contract is entered into for the procurement	Participant of the Management Committee (MC)
Form B	Declaration on HAVING dealing(s) or connection(s) with a member of the MC / owners' committee; HAVING interest(s) or connection(s) for the tender(s) submitted, before a contract is entered into for the procurement	Responsible person / manager for the procurement
Form C	Declaration on NO interest(s) or connection(s) for the tenders submitted, before the first tender acceptance meeting is held for large-scale maintenance procurement	Each participant of the MC
Form D	Declaration on NO dealing(s) or connection(s) with a member of the MC / owners' committee; NO interest(s) or connection(s) for the tender(s) submitted, before the first tender acceptance meeting is held for large-scale maintenance procurement	Each responsible person / manager for the procurement

Declaration on HAVING interest(s) or connection(s) for the tenders submitted

(for the participant of a Management Committee (MC) to declare
before a contract is entered into for the procurement)

To: MC Chairperson / Secretary / All members*

Owners' Corporation of

(Description of the building)

I / We*, (Name of the declarant or body corporate), being the
Chairperson / Vice Chairperson / Secretary / Treasurer / Member* of the aforementioned
MC of the Owners' Corporation, make the following declaration(s) on the procurement of
..... (brief description of the procurement)^:

☐ I / We* have pecuniary and / or personal interest(s) in the tender(s) submitted and
declare as follows:

Supplier / Contractor's name:

Brief of personal interest(s) to be declared:

.....
(Please attach and sign on supplementary sheets if necessary)

☐ I / We* have connection(s) with a person or body corporate^ who has submitted the
tender(s), and declare as follows:

Tenderer's name:

Brief of connection(s) to be declared:

.....
(Please attach and sign on supplementary sheets if necessary)

* Delete as appropriate

Please insert a "✓" in the appropriate box.

^ As defined in sections 2(5) and (6) of the Building Management Ordinance (Cap. 344)

.....
Name of the declarant or authorized representative of
body corporate (in BLOCK LETTER)

.....
Signature

Body corporate seal (if applicable):

Body corporate name (if applicable):

Date:

Declaration on HAVING dealing(s) or connection(s) with a member of the Management Committee (MC) / Owners' Committee; and / or HAVING interest(s) or connection(s) for the tender(s) submitted
(for the responsible person / manager of a procurement to declare before a contract is entered into for the procurement)

To: MC / Owners' Committee* Chairperson / Secretary (for MC only) / All members*

Owners' Corporation / Owners' Committee* of
 (Description of the building)

I / We*, (Name of the declarant or company name), being the responsible person / manager* of the procurement for the aforementioned building, make the following declaration(s) on the procurement
 (brief description of the procurement)*:

☐ I / We* have pecuniary and / or other personal dealing(s) with a member of an MC / owners' committee* and declare as follows:

Name of the member: Post:

Brief of dealing(s) to be declared:

.....
 (Please attach and sign on supplementary sheets if necessary)

☐ I / We* have connection(s)^ with a member of an MC / owners' committee* and declare as follows:

Name of the member: Post:

Brief of connection(s) to be declared:

.....
 (Please attach and sign on supplementary sheets if necessary)

☐ I / We* have pecuniary and/or other personal interest(s) in the tender(s) submitted and declare as follows:

Supplier / Contractor's name:

Brief of personal interest(s) to be declared:

.....
 (Please attach and sign on supplementary sheets if necessary)

☐ I / We* have connection(s) with a person or body corporate^ who has submitted the tender(s), and declare as follows:

Tenderer's name:

Brief of connection(s) to be declared:

.....
(Please attach and sign on supplementary sheets if necessary)

* Delete as appropriate

Please insert a "✓" in the appropriate box.

^ As defined in sections 2(5) and (6) of the Building Management Ordinance (Cap. 344)

.....
Name of the declarant or authorized representative of
company (in BLOCK LETTER)

.....
Signature

Company seal (if applicable):

Company name (if applicable): Date:

Large-scale Maintenance Procurement Declaration on NO interest(s) or connection(s) for the tenders submitted

(for each participant of the Management Committee (MC) to declare
before the first tender acceptance meeting is held)

To: MC Chairperson / Secretary / All members*

Owners' Corporation of **(Brief description of the building)**

I / We*, (Name of the declarant or body corporate),
being the Chairperson / Vice Chairperson / Secretary / Treasurer / Member* of the
aforementioned MC of the Owners' Corporation, make the following declaration(s) on the
procurement of (brief description of the procurement)†:

I. Pecuniary or other personal interest(s) in the tender(s) submitted

☐ I / We*, apart from the declaration(s) on **ALL** interests in the tenders submitted on the
date(s) below, have no other pecuniary or personal interest in the tender(s) submitted:

OR (Please provide the signature date of the corresponding declaration(s))

☐ I / We* have **NO** pecuniary or other personal interest in the tender(s) submitted.

II. Connection(s) with a person / body corporate who has submitted a tender[^]

☐ I / We*, apart from the declaration(s) on **ALL** connections with a person or body corporate
who has submitted a tender on the date(s) below, have no other connection with a person
or body corporate who has submitted a tender:

OR (Please provide the signature date of the corresponding declaration(s))

☐ I / We* have **NO** connection with a person or body corporate who has submitted a tender.

* Please delete as appropriate

You must complete Part I and II. Please insert a "✓" in the appropriate box.

[^] As defined in sections 2(5) and (6) of the Building Management Ordinance (Cap. 344)

.....
Name of the declarant or authorized representative of
body corporate (in BLOCK LETTER)

.....
Signature

Body corporate seal (if applicable):

Body corporate name (if applicable):

Date:

**Large-scale Maintenance Procurement
Declaration on NO dealing(s) or connection(s) with
a member of the Management Committee (MC) /
owners' committee; NO interest(s) or connection(s)
for the tender(s) submitted**

(for each responsible person / manager to declare
before the first tender acceptance meeting is held)

To: MC / Owners' Committee* Chairperson / Secretary (for MC only) / All members*

Owners' Corporation / Owners' Committee* of
(Description of the building)

I / We*, (Name of the declarant or company name), being the
responsible person / manager* of the procurement for the aforementioned building, make
the following declaration(s) on the procurement
..... (brief description of the procurement)*:

I. Pecuniary and / or other personal dealing(s) with a member of an MC / owners' committee

☐ I / We*, apart from the declaration on **ALL** pecuniary or other personal dealings with a
member of an MC / owners' committee* on the date(s) below, have **NO** other pecuniary
or personal dealing with a member of an MC / owners' committee*.

OR
(Please provide the signature date of the corresponding declaration(s))

☐ I / We* have **NO** pecuniary or other personal dealing with a member of an MC / owners'
committee.

II. Connection with a member of an MC / owners' committee^

☐ I / We*, apart from the declaration on **ALL** connections with a member of an MC / owners'
committee* on the date(s) below, have **NO** other connection with a member of an MC /
owners' committee*.

OR
(Please provide the signature date of the corresponding declaration(s))

☐ I / We* have **NO** connection with a member of an MC / owners' committee*.

III. Pecuniary or other personal interest(s) in the tender(s) submitted

☐ I / We*, apart from the declaration(s) on **ALL** pecuniary or other personal interests in the tender(s) submitted on the date(s) below, have no other pecuniary or personal interest in the tender(s) submitted.

OR (Please provide the signature date of the corresponding declaration(s))

☐ I / We* have **NO** pecuniary or other personal interests in the tender(s) submitted.

IV. Connection(s) with a person / body corporate who has submitted a tender[^]

☐ I / We*, apart from the declaration(s) on **ALL** connections with a person or body corporate who has submitted a tender on the date(s) below, have no other connection with a person or body corporate who has submitted a tender.

OR (Please provide the signature date of the corresponding declaration(s))

☐ I / We* have **NO** connections with a person / body corporate who has submitted a tender.

* Please delete as appropriate.

You must complete Part I and IV. Please insert a "✓" in the appropriate box.

[^] As defined in the sections 2(5) and (6) of the Building Management Ordinance (Cap. 344)

.....
Name of the declarant or authorized representative of
company (in BLOCK LETTER)

.....
Signature

Company seal (if applicable):

Company name (if applicable):

Date:

Schedule 6A to the Building Management Ordinance

1. Interpretation (Schedule 6A)

In this Schedule —

deadline (入標期限), in relation to the submission of a tender for any procurement, means the time after which the submission may no longer be made under —

- (a) subject to sub-subparagraph (b), the terms of the invitation to tender issued for the procurement; or
- (b) if the invitation is revised — the terms of the revised invitation issued for the procurement.

2. Content of invitation to tender

- (1) An invitation to tender issued for the procurement must set out clearly —
 - (a) the nature of the supplies, goods or services to which the procurement relates; and
 - (b) a specified time on a specified day after which a tender may no longer be submitted for the procurement.
- (2) To avoid doubt, subparagraph (1)(b) does not prevent the invitation to tender from containing any terms in respect of a postponement, for reasons such as inclement weather, of the time after which a tender may no longer be submitted for the procurement.
- (3) In this paragraph, a reference to an invitation to tender issued for the procurement includes, if applicable, any revised invitation to tender issued for the procurement.

3. Display of copy of invitation to tender

- (1) If an invitation to tender is issued for the procurement, the management committee must display a copy of the invitation in a prominent place in the building as soon as reasonably practicable after the invitation is issued, and cause it to remain so displayed until the deadline for the submission of a tender for the procurement.
- (2) If a revised invitation to tender is issued for the procurement —
 - (a) the requirement under this paragraph to cause a copy of the previous version of the invitation to remain displayed in a prominent place in the building ceases to apply; and
 - (b) the management committee must display a copy of the revised invitation in a prominent place in the building as soon as reasonably practicable after the revised invitation is issued, and cause it to remain so displayed until the deadline for the submission of a tender for the procurement.

4. No acceptance of tender submitted after deadline

Any tender submitted for the procurement after the deadline must not be accepted.

5. No acceptance of tender without approval under certain circumstances

- (1) Subject to subparagraph (4), no tender may be accepted for the procurement if—
 - (a) the procurement is the procurement of any supplies, goods or services the value of which exceeds, or is likely to exceed, \$200,000, and an invitation to tender has not been specifically issued to 5 or more potential suppliers for the procurement; or
 - (b) the procurement is the procurement of any supplies, goods or services the value of which —
 - (i) exceeds, or is likely to exceed, \$10,000; but
 - (ii) does not exceed, or is unlikely to exceed, \$200,000,and an invitation to tender has not been specifically issued to 3 or more potential suppliers for the procurement.
- (2) For the purposes of subparagraph (1), an invitation to tender is specifically issued to a person if it is issued —
 - (a) by delivering a copy of the invitation in hard copy form personally to the person;
 - (b) by sending a copy of the invitation in hard copy form by post, or by courier service, to the person at the person's last known business address; or
 - (c) by sending validly a copy of the invitation in electronic form to the person.
- (3) Subparagraph (1) applies regardless of whether an invitation to tender issued for the procurement is advertised (such as in a local newspaper or on a website) and is open to any potential suppliers.
- (4) Subparagraph (1) does not have any effect in relation to the procurement if it is so decided by —
 - (a) if the procurement is type 1 high-value procurement — a management committee resolution; or
 - (b) if the procurement is type 2 high-value procurement or large-scale maintenance procurement — a corporation resolution.
- (5) In this paragraph, a reference to an invitation to tender issued for the procurement includes, if applicable, any revised invitation to tender issued for the procurement.

Schedule 6C to the Building Management Ordinance Specific Procedure at General Meetings of Corporations Concerning Large-scale Maintenance Procurement

Part 1—Preliminary

1. Interpretation (Schedule 6C)

- (1) In this Schedule, a reference to a meeting of a corporation—
 - (a) is a reference to a general meeting of the corporation convened under Schedule 3; and
 - (b) if a meeting mentioned in sub-subparagraph (a) is adjourned—includes the adjourned meeting.
- (2) In this Schedule, a reference to a proposed large-scale maintenance procurement resolution is a reference to a proposed resolution of the owners for deciding—
 - (a) whether a tender submitted for any large-scale maintenance procurement is to be accepted or not; or
 - (b) whether a contract entered into for any large-scale maintenance procurement —
 - (i) is to be varied or not;
 - (ii) is to be terminated or not; or
 - (iii) is to be avoided under section 28(1)(b) or not.

2. Schedule 3 not limited unless inconsistent

This Schedule does not limit Schedule 3 in relation to the procedure at a meeting of a corporation to the extent that Schedule 3 is consistent with this Schedule.

Part 2—Procedure

3. Notices of meeting

- (1) If a resolution that is to be proposed at a meeting of a corporation is a proposed large-scale maintenance procurement resolution, the statement in the notice of the meeting specifying the proposed resolution for compliance with paragraph 2(1AA)(b) of Schedule 3 must be titled “**Important Reminder**” in English and “**重要提示**” in Chinese.
- (2) If the proposed large-scale maintenance procurement resolution concerns the question mentioned in paragraph 1(2)(a), the notice of the meeting must, in relation to each tender that is valid under the terms of the relevant invitation to tender, set out clearly and legibly —

- (a) the estimated amount to be contributed from each building management fund for the procurement; and
 - (b) the estimated apportioned amount that each of the owners is to contribute for the procurement in addition to a contribution mentioned in sub-subparagraph (a).
- (3) If the proposed large-scale maintenance procurement resolution concerns a question mentioned in paragraph 1(2)(b) and the corporation or the owners (or both of the corporation and the owners) are expected to incur any financial liability (including legal costs) because of the relevant variation, termination or avoidance of contract, the notice of the meeting must set out clearly and legibly—
- (a) the estimated amount to be contributed from each building management fund for settling the costs; and
 - (b) the estimated apportioned amount that each of the owners is to contribute for settling the costs in addition to a contribution mentioned in sub-subparagraph (a).
- (4) To avoid doubt, even if the estimated amount mentioned in subparagraph (2) or (3) is zero, that subparagraph does require such an amount to be set out in accordance with that subparagraph.
- (5) In this paragraph—
- building management fund** (建築物管理基金) means—
- (a) a general fund established and maintained by the corporation under section 20(1);
 - (b) a contingency fund established and maintained by the corporation under section 20(2);
 - (c) a special fund established and maintained by the manager of the building under the mandatory DMC terms contained in paragraph 4(1) of Schedule 7; or
 - (d) any fund other than the special fund that is established and maintained by the manager of the building for performing a function under the deed of mutual covenant or this Ordinance.

4. Voting-in-person threshold

- (1) The voting in respect of a proposed large-scale maintenance procurement resolution at a meeting of a corporation is subject to a voting-in-person threshold specified under subparagraph (2).
- (2) The voting-in-person threshold is the lesser of —
 - (a) 5% of the owners; or
 - (b) 100 owners.

5. Recording of votes cast personally and by proxy

If votes have been cast for a proposed large-scale maintenance procurement resolution at a meeting of a corporation, the person presiding over the meeting must not certify the minutes of the proceedings at the meeting under paragraph 6(2) of Schedule 3 unless the person is satisfied that the minutes contain a clear and legible record of—

- (a) the total number of such votes cast personally; and
- (b) the total number of such votes cast by proxy.

6. Supply of copies of minutes of proceedings at meetings

- (1) This paragraph applies if a proposed large-scale maintenance procurement resolution is considered at a meeting of a corporation.
- (2) The management committee must, within 28 days after the date of the meeting, supply each of the owners and the tenants' representative (if any) (**recipient**) with a copy of the certified minutes for the meeting—
 - (a) by delivering a copy of the minutes in hard copy form personally to the recipient;
 - (b) by sending a copy of the minutes in hard copy form by post to the recipient at the recipient's last known address;
 - (c) by leaving a copy of the minutes in hard copy form at the recipient's flat or depositing such a copy in the letter box for that flat; or
 - (d) by sending validly a copy of the minutes in electronic form to the recipient.

Schedule 7
to the Building Management Ordinance
Specific Procedure at Meetings of Owners
Concerning Large-scale Maintenance Procurement

48. Notices of meeting

- (1) If a resolution that is to be proposed at a meeting of owners is a proposed large-scale maintenance procurement resolution, the statement in the notice of the meeting specifying the proposed resolution for compliance with paragraph 39(2)(b) must be titled “**Important Reminder**” in English and “**重要提示**” in Chinese.
- (2) If the proposed large-scale maintenance procurement resolution concerns the question mentioned in paragraph 46(a), the notice of the meeting must, in relation to each tender that is valid under the terms of the relevant invitation to tender, set out clearly and legibly—
 - (a) the estimated amount to be contributed from each building management fund for the procurement; and
 - (b) the estimated apportioned amount that each of the owners is to contribute for the procurement in addition to a contribution mentioned in sub-subparagraph (a).
- (3) If the proposed large-scale maintenance procurement resolution concerns a question mentioned in paragraph 46(b) and the owners are expected to incur any financial liability (including legal costs) because of the relevant variation or termination of contract, the notice of the meeting must set out clearly and legibly—
 - (a) the estimated amount to be contributed from each building management fund for settling the costs; and
 - (b) the estimated apportioned amount that each of the owners is to contribute for settling the costs in addition to a contribution mentioned in sub-subparagraph (a).
- (4) To avoid doubt, even if the estimated amount mentioned in subparagraph (2) or (3) is zero, that subparagraph does require such an amount to be set out in accordance with that subparagraph.

(5) In this paragraph—

building management fund (建築物管理基金) means—

- (a) a special fund established and maintained by the manager under paragraph 4(1); or
- (b) any fund other than the special fund that is established and maintained by the manager for performing a function under the deed of mutual covenant or this Ordinance.

49. Voting-in-person threshold

- (1) The voting in respect of a proposed large-scale maintenance procurement resolution at a meeting of owners is subject to a voting-in-person threshold specified under subparagraph (2).
- (2) The voting-in-person threshold is the lesser of—
 - (a) 5% of the owners; or
 - (b) 100 owners.

50. Recording of votes cast personally and by proxy

If votes have been cast for a proposed large-scale maintenance procurement resolution at a meeting of owners, the manager must ensure that the minutes of the proceedings at the meeting kept under paragraph 40(1) contain a clear and legible record of—

- (a) the total number of such votes cast personally; and
- (b) the total number of such votes cast by proxy.

51. Supply of copies of minutes of proceedings at meetings

If a proposed large-scale maintenance procurement resolution is considered at a meeting of owners, the manager must, within 28 days after the date of the meeting, supply each of the owners with a copy of the minutes of the proceedings at the meeting that are kept under paragraph 40—

- (a) by delivering a copy of the minutes in hard copy form personally to the owner;
- (b) by sending a copy of the minutes in hard copy form by post to the owner at the owner's last known address;
- (c) by leaving a copy of the minutes in hard copy form at the owner's flat or depositing such a copy in the letter box for that flat; or
- (d) by sending validly a copy of the minutes in electronic form to the owner.

If there is any inconsistency between the Chinese version and the English version of this Code, the Chinese version shall prevail.

If there are any amendments to any laws or regulations mentioned in this Code, licensees have to act in accordance with the revised provisions.



Related Best Practice Guide

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