CORRUPTION PREVENTION GUIDE ON

WORKS SUPERVISION

DISCLAIMER
Descriptions and explanation of legal requirements under the Prevention of Bribery Ordinance (POBO, Cap. 201) and other relevant ordinances / laws in this Guide are necessarily general and abbreviated for ease of understanding. Users of the Guide are advised to refer to the original text of the relevant ordinances / laws or seek legal advice on particular issues where necessary. The ICAC will not accept any responsibility, legal or otherwise, for any loss occasioned to any person acting or refraining from action as a result of any material in this Guide.

Case scenarios are used in this Guide to illustrate the legal requirements and corruption risks and to highlight the lessons learnt. While they are drawn up based on actual corrupt practices, each case scenario is hypothetical and does not mean to refer to any particular case or relate to any particular government department, public body or person.

Throughout this Guide, the male pronoun is used to cover references to both the male and female. No gender preference is intended.

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FOREWORD

To support the development of Hong Kong's economy and community, government departments and public bodies (including those with construction of works incidental to their core functions) (referred hereinafter to as "project clients") spend a large amount of public funds on building and infrastructure projects. Very often, these projects involve complicated works processes and use of numerous materials, the quality of which are of critical importance. Moreover, such materials and works are normally accepted, stored and carried out on site, with some fabricated in factories outside Hong Kong, rendering the relevant processes more difficult to control and supervise. Coupled with the pressure or incentives for contractors to cut cost and maximise profit or meet tight schedules, there is a significant risk of site supervisory staff being compromised to turn a blind eye to substandard works.

Corruption in site supervision could impair not only the quality but also the structural integrity of the works. More importantly, public trusts and confidence over the project clients and their works could be evaded. As such, an effective and robust works supervision system is vital in ensuring works quality of the projects and thus safeguarding public safety and interest.

To prevent corruption and other malpractices in works supervision, this Corruption Prevention Guide aims to provide a list of measures to help project clients strengthen their internal control in the supervision and acceptance of materials and works. Given the benefits of a digital works supervision system in enhancing the accountability and controls of works supervision, this Guide also provides some principles and corruption prevention measures for developing such system. The measures suggested in the Checklist for Corruption Prevention and principles set out in the Guide are by no means prescriptive or exhaustive. They are not intended to supersede any laws, departmental instructions / guidelines, or contractual, regulatory or professional standards, code of practices and requirements. Project clients are advised to appropriately adopt the recommended measures, having regards to their organisational structure, resource capability, operational needs, and risk exposures. They are also advised to read this Guide in conjunction with the relevant legislation and guidelines, codes, etc. issued by the Government and professional bodies as appropriate.

Other than project clients, developers and practitioners in the private sector may adapt the corruption prevention measures in the Guide where appropriate to strengthen the works supervision systems for their construction projects.

CHAPTER 1
LEGISLATION

1.1 Introduction

POBO criminalises bribery and corrupt transactions in both the public and private sectors. To avoid pitfalls of corruption and related offences in carrying out site supervision duties, it is advisable for the site supervisory staff of project clients and their consultants to understand the relevant legal requirements.

1.2 Legal Requirements

1.2.1 Prevention of Bribery Ordinance

1.2.1.1 Section 3
Soliciting or Accepting an Advantage

(a) Section 3 – It is an offence for a government officer[1] to, without the general or special permission of the Chief Executive, solicit or accept any advantage[2].

(b) The maximum penalty for an offence under Section 3 is a fine of $100,000 and imprisonment for one year.

(c) The Acceptance of Advantages (Chief Executive's Permission) Notice (AAN) gives general permission to government officers to solicit and / or accept all advantages under Section 3 of POBO, except four types of "restricted advantages", namely gifts (whether of money or otherwise), discounts, loans of money, and passages. It specifies the circumstances under which general permission is given for government officers to solicit and / or accept these four types of advantages. For circumstances not covered by the general permission under AAN, the government officer is required to seek special permission from the approving authority for accepting the advantage.

1.2.1.2 Section 4
Bribery

(a) Section 4(1) – It is an offence for any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant[3] as an inducement to or reward for his performing or abstaining from performing any act in his capacity as a public servant.

(b) Section 4(2) – It is an offence for any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for his performing or abstaining from performing any act in his capacity as a public servant.

(c) The maximum penalty for an offence under Sections 4(1) and 4(2) is a fine of $500,000 and imprisonment for seven years.

1 *The term in POBO is "prescribed officer" which generally includes, among others, any person holding an office of emolument, whether permanent or temporary, under the Government.*

2 *It generally refers to anything that is of value such as money, gift, discount, commission, loan, employment, service or favour (except entertainment).*

3 *Public servants generally refer to any government officers, employees and members of public bodies as defined in POBO.*

1.2.1.3 Section 8
Bribery of Public Servants by Persons Having Dealings with Public Bodies

(a) Section 8 – It is an offence for any person who, without lawful authority or reasonable excuse, while having dealings of any kind with a government department / office or a public body, offers any advantage to any government officer employed in that department / office or public servant employed by that public body.

(b) The maximum penalty for an offence under Section 8 is a fine of $500,000 and imprisonment for seven years.

1.2.1.4 Section 9
Corrupt Transactions with Agents

(a) Section 9(1) – It is an offence for any agent (e.g. an employee, a director, a consultant) to, without the permission of his principal (e.g. employer, who may include the Government, a public body, a private company, or an individual) or reasonable excuse, solicit or accept any advantage as an inducement to or reward for his doing or forbearing to do any act in relation to his principal's affairs or business.

(b) Section 9(2) – Any person who offers any advantage to an agent under the above circumstances also commits an offence.

(c) Section 9(3) – It is an offence for any agent to, with an intent to deceive his principal, use any receipt, account or other document which contains any statement which is misleading, false or defective in any material particular in respect of which the principal is interested.

(d) The maximum penalty for an offence under Sections 9(1), 9(2) and 9(3) is a fine of $500,000 and imprisonment for seven years.

1.2.1.5 Section 19
Custom not to be a Defence

(a) Section 19 – It is not a defence to claim that an advantage accepted or offered is customary in any profession, trade, vocation or calling.

An extract of POBO is at ***Annex 1***.

1.2.2 Misconduct in Public Office

Corrupt activities in the public sector have over the years evolved from mainly straight bribery to various malpractices involving abuse of public authority or other misconduct. Such malpractices may amount to the common law offence of misconduct in public office (MIPO) by the public servants. The Court of Final Appeal has provided the following key elements of the MIPO offence –

(a) a public official[4];

(b) in the course of or in relation to his public office;

(c) wilfully misconducts himself, by act or omission (e.g. by wilfully neglecting or failing to perform his duty);

(d) without reasonable excuse or justification; and

(e) where such misconduct is serious, not trivial, having regards to the responsibilities of the office and the officeholder, the importance of the public objects which they serve and the nature and extent of the departure from those responsibilities.

1.3 Integrity Requirements

In addition to the legal requirements, government officers are subject to stringent integrity requirements set out in Civil Service Regulations, Civil Service Bureau's circulars, Acceptance of Advantages (Chief Executive's Permission) Notice, etc., covering acceptance of advantage (e.g. lai see), declaration and management of conflict of interest, handling of confidential information, etc. For public servants who are members or employees of public bodies, they are governed by similar rules and guidelines laid down by individual public bodies. Likewise, employees working in private companies have to comply with the rules and guidelines (e.g. code of conduct[5]) issued by their companies. Any person who fails to comply with the integrity requirements may be liable to disciplinary action, and where criminal misconduct is involved, even prosecution under POBO.

Besides, to ensure that their business partners are also committed to ethical practices, the Government and some public bodies have set out integrity requirements in the tender documents (e.g. prohibit the offering of advantage to government officers with a view to influencing the award of the contract) and contract documents (e.g. prohibit the offering, solicitation and acceptance of advantage when conducting business in connection with the contract) for compliance by their consultants, contractors, suppliers, etc. Any non-compliance with such integrity requirements may lead to invalidation of the tenders submitted or termination of the contracts concerned, and subject to civil liabilities (e.g. indemnifying the Government against losses or costs arising from the non-compliance) and even sanctions of criminal offences (e.g. the POBO offences).

4 *For the purpose of MIPO, public official is a person who is vested with powers, duties, responsibilities or discretions which he is obliged to exercise or discharge for the benefit of the general public. Such a person may or may not be employed by the Government, and he may or may not be paid. Notwithstanding the above, the definition of public official is an area where the common law is still evolving and developing to meet the challenging and different forms of public responsibilities.*

5 *The ICAC has published various sample codes of conduct for reference by public bodies and private sector companies. The sample codes can be downloaded at the following website: https://cpas.icac.hk/EN/Info/Lib_Index?cate_id=3.*

CHAPTER 2

QUALITY CONTROL OF MATERIALS

2.1 Introduction

An effective quality control system for construction materials is vital in ensuring the quality of works. The system usually involves the drawing up and approval of specifications, inspection, testing and safekeeping of materials on site. This Chapter highlights the major risks of corruption and malpractices and provides recommended measures for quality control of materials. In addition, case studies with lessons learnt and red flags (i.e. indicators of areas where more management oversight is required to safeguard against possible corruption and malpractices) are also provided.

To ensure that the quality control system can be effectively executed, the project client should set up a site supervision team with sufficient manpower and relevant expertise, deployed either in-house or from its consultant, if one is engaged. Having regards to the nature, scale and complexity of the project, the site supervision team should comprise professional and inspectorate staff of the appropriate disciplines and ranks. The project client should also subject all site supervisory staff to stringent integrity requirements and raise their corruption prevention capability and awareness through regular reminders and training.

2.2 Key Procedures

The following key procedures related to quality control of materials are covered in this Chapter –

Drawing up of material specifications

Approval of material submissions

Inspection of materials delivered to site

Handling of compliance test samples and reports

Identification, safekeeping and documentation of compliant materials before and after use

2.3 Major Corruption Risks

Common risks of corruption and malpractices in quality control of materials include the following –

- **Specification of materials** – Specify materials with brand names / ambiguous requirements / unclear acceptance criteria.
- **Checking of material submissions** – Approval of substandard materials in the checking of material proposals.
- **Inspection of materials delivered to site** – Connivance at substandard materials, and absence of proper documentation on the results of inspections.
- **Approval of testing laboratories** – Acceptance of testing laboratories affiliated with the contractors / subcontractors in the project.
- **Handling of test samples and reports** – Biased selection of prefabricated item samples for compliance tests, and tampering with selected test samples during storage and transportation and with test reports.

2.4 Red Flags

The following are some examples of red flags in the quality control of materials where more management oversight is required to safeguard against possible corruption and malpractices.

Assessment of material proposals
There are frequent repeated rejections of contractors' material proposals without proper justifications and key information (e.g. expiry date) in the supporting test certificates is not provided or not legible.

Checking of materials delivered to site
The key information (e.g. brand name) of materials is not provided or not legible in delivery notes and the quantities of materials shown on delivery notes are substantially different from those required for the works.

Verification of the authenticity of materials
Manufacturers / suppliers cannot always be reached when verifying the authenticity of the materials supplied.

Selection of test samples
Test samples are often prepared or selected by contractors' staff without the presence of site supervisory staff; and contractors always confine the areas / locations using different means / excuses (e.g. restricted access) for selection of test samples by site supervisory staff.

Security of test samples
Particular site supervisory staff who are not involved in handling test samples visit sample store rooms frequently outside office hours.

Integrity of test results
The serial numbers of two test reports are identical or illogical (e.g. the serial number of an earlier test report is larger than that of a report issued at a later stage).

Security of compliant materials
Unusual movement of trucks entering or leaving the sites outside office hours; and the consumption of materials approved or stored on site is significantly disproportionate to the works progress.

2.5 Case Studies

Case One – Corrupt Connivance of Substandard Materials

A contractor was awarded a contract for the construction of seawalls using rock fills in a public works project. A consultant was appointed by the client to supervise the works including checking of rock fills delivered by the contractor on site. While checking the rock fills delivered to site, the consultant's inspector of works found that substandard materials / domestic waste were mixed with the rock fills. Knowing the incident, the contractor's foreman offered a $50,000 casino token to the inspector of works for turning a blind eye to the non-compliance. The foreman was guilty of offering an advantage to an agent, contrary to Section 9(2)(a) of POBO, and was sentenced to imprisonment.

Case in Perspective

Site supervisory staff are often exposed to risks of bribery when performing works supervision duties. Unlike the above case, site supervisory staff are at times offered advantage without being explicitly asked for reciprocal acts, but only as a sweetener. Therefore, to protect themselves from falling prey to bribery, it is advisable for site supervisory staff to decline advantage offered to them by contractors / subcontractors under their supervision, and report any suspected bribery to the ICAC immediately.

Case Two – Falsification of Materials Certificates

A government department appointed a contractor to build a temporary toilet and roadside seats in a public works project. The contract required that all timber used for the toilet and the seats should bear an authenticity certificate issued by an accredited organisation. In order to avoid delay in work progress, the department's technical officer colluded with an employee of the contractor to falsely represent that the timber with the required certificate was used for the project. In fact, another kind of timber without such certification was used. After the corruption investigation, the technical officer and the employee of the contractor were charged with and convicted of conspiracy to defraud[6].

Case in Perspective

While the technical officer in the above case did not receive any bribe and was not charged with an offence under POBO, his misconduct and favouring to the contractor has seriously breached the trust upon him by the Government and eroded public confidence on the quality of the works concerned. It is also advisable for site supervisory staff to note that it is never an excuse to commit any misconduct or deviate from laid down procedures to expedite works progress and not for personal gain, as this may not only render themselves liable to criminal offence / disciplinary actions, but also compromise the quality of works and hence put public safety at stake.

6 *This common law offence concerns two or more persons dishonestly agreeing to commit fraud against another person. According to Section 16A of the Theft Ordinance (Cap. 210), a fraud is committed by a person if he, by any deceit and with intent to defraud, induces another person to commit an act or make an omission which results in benefiting any person, or in prejudice or a substantial risk of prejudice to any person.*

2.6 Checklist for Corruption Prevention

2.6.1 Drawing up of Material Specifications

- Specify materials with clearly defined performance requirements and acceptance criteria in contract specifications.
- Avoid specifying materials by brand names or restrictive specifications, as far as practicable.
- Where it is unavoidable to specify materials by brand names, provide at least three brand names followed by the phrase "or equivalent", and subject the justifications and proposed brand names to approval by a designated authority.
- Determine whether a performance specification is overly restrictive, assess whether the standard can be satisfied by more than one product in the market.

2.6.2 Approval of Material Submissions

- Check material proposals and supporting documents (e.g. test reports, catalogues) to ensure the related contract requirements are complied with, and subject the approval of material proposals to supervisory checks and proper records.
- Require contractors to provide justifications for using alternative materials and check if the alternative materials have equivalent performance.
- Require contractors to submit samples of safety / quality-critical materials for approval, adopt security measures to prevent the approved samples from being tampered with (e.g. use of unique and anti-tampering labels attached securely to the approved samples, keep the approved samples in a room securely locked and with access control).

2.6.3 Inspection of Materials Delivered to Site

- Inspect materials delivered to site against the approved material submissions and record on an inspection form the inspection results with supporting photographs and documents (e.g. original or certified true copies of delivery notes, copies of test reports and mill certificates).
- Include the following information on the inspection form –
    - Details of the material inspected (e.g. description and brand name of material).
    - The inspection time and results (e.g. whether the material complies with the contract requirements).
    - The identity and signature of the site supervisory staff.
- Subject the inspection results to regular / random supervisory checks and properly document the checks.
- Monitor the inspection forms submitted to ensure they cover all materials approved and delivered to site.
- Carry out random checks on the authenticity of (major) materials delivered through direct verification with manufacturers or suppliers and properly document the checks.

2.6.4 Handling of Compliance Test Samples and Reports

2.6.4.1 Appointment of Laboratories

- Appoint laboratories accredited under the Hong Kong Laboratory Accreditation Scheme and without affiliation with the contractor and its subcontractors for performing compliance tests on materials.

2.6.4.2 Selection of Test Samples

- Set out clearly the percentages of materials subject to laboratory tests and in-situ tests in contract specifications which should be adequate for quality control purpose.
- Ensure randomness in the selection of test samples, where practicable and with the aid of information technology, automate the random selection process for test samples.
- Record test samples selected on the inspection form (e.g. tests to be conducted, location where the test sample is selected), and subject the selection to random supervisory checks and properly document the checks.

2.6.4.3 Safekeeping of Test Samples

- Ensure the traceability and security of test samples through the use of anti-tampering security labels (e.g. Quick Response (QR) codes or Radio Frequency Identification (RFID) tags for concrete cubes, tamper-evident labels for steel reinforcing bars), and implement a control system to ensure the proper issue and usage of the security labels.
- Safeguard the security of selected test samples stored on site pending for delivery to the laboratory (e.g. require designated site supervisory staff to keep the key to the room storing the test samples or install a digital locks system to log the access information to the room, install closed-circuit television (CCTV) at strategic locations of the room).
- Ensure test samples are collected by or transported to the laboratory under the supervision of the site supervisory staff.
- Document the handover of test samples to the laboratory staff with a form showing the identities of the test samples, the site supervisory staff and the laboratory staff, etc.

2.6.4.4 Supervision of In-situ Tests

- Ensure the integrity of equipment used for in-situ tests (e.g. valid calibration certificates issued by an accredited laboratory, the serial number of the equipment tallies with that on the calibration certificate).
- Record the results of in-situ tests on an inspection form with supporting photographs and documents (e.g. calibration certificate).
- For in-situ tests involving continuous measurements over a long period of time (e.g. loading test on piles), monitor site activities to prevent tampering with the equipment and the test results (e.g. setting up CCTV with remote access to detect irregularities).
- Subject the results of in-situ tests to supervisory checks and proper documentation.

2.6.4.5 Handling of Test Reports

- Require laboratories to send test reports directly to the client / consultant in sealed envelopes or the client / consultant and the contractor in parallel.

2.6.4.6 Conduct of Parallel Tests

- Engage a separate laboratory as necessary to conduct parallel tests[7] of materials having regards to the nature of the materials (e.g. those are quality / safety-critical and used in large quantity) and past performance of the original laboratory.

2.6.5 Identification, Safekeeping and Documentation of Materials before / after Use

- Require the contractor to establish a stock control system on site for storage and distinguishing materials which are not yet tested, tested and compliant / non-compliant.
- Enhance the security measures to prevent swapping of non-compliant materials with compliant ones such as installing CCTV at strategic site locations / material storage areas.
- Ensure the timely removal of non-compliant materials and properly document the materials removed.
- Conduct regular inspections to ascertain that only compliant materials are stored on site and used for construction and properly document such inspections.
- Adopt information technology to record and manage information about the safety-critical materials stored / used on site (e.g. using Building Information Modelling (BIM) technology to systematically record their movements and use, including the locations where they are finally used / installed).

7 *Parallel tests are tests on the same batch of materials conducted by another laboratory to verify the test results of the original laboratory and hence the quality of the materials.*

CHAPTER 3

SITE SUPERVISION OF WORKS

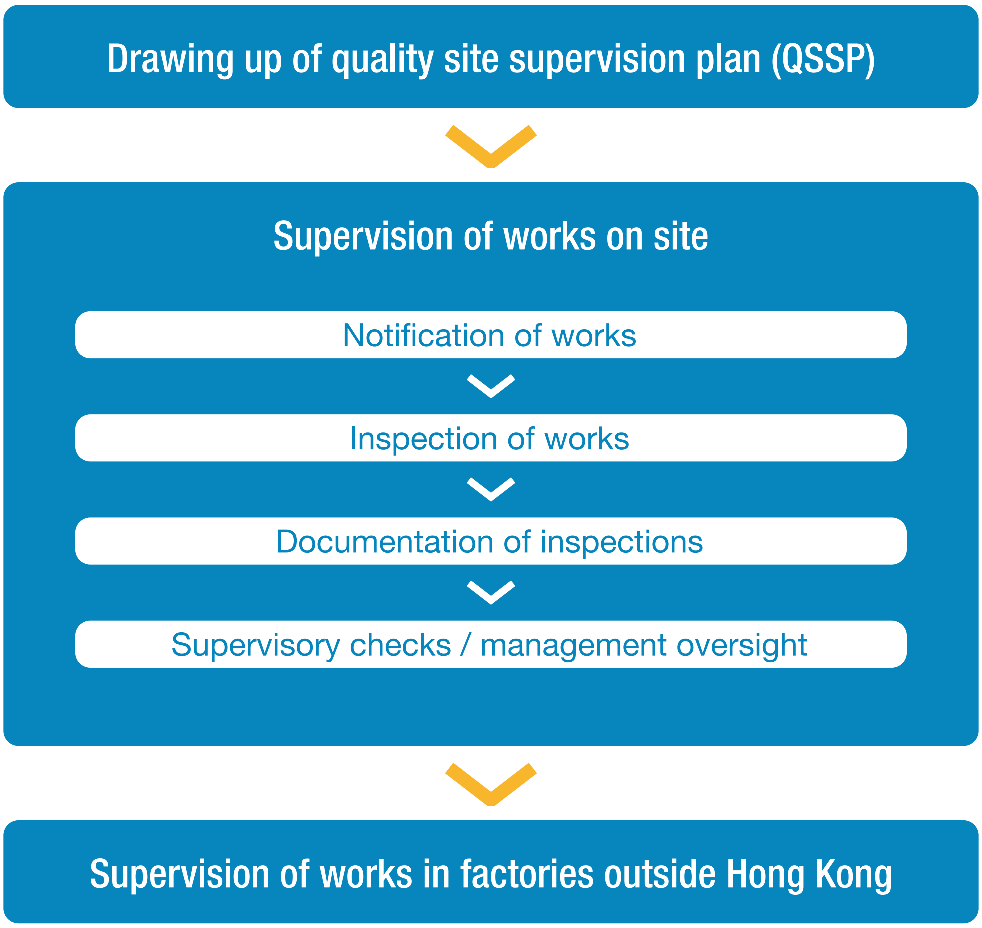
3.1 Introduction

Apart from quality control of materials, supervision of works processes on site or in factories outside Hong Kong is equally imperative to ensure the quality of works in construction projects. Major areas involved in a site supervision system include the drawing up of supervision plans, conduct of inspections and documentation and follow-up of the inspection results. This Chapter outlines the major corruption risks with a checklist of recommended measures for key areas related to site supervision of works. Case studies with lessons learnt and red flags are also provided in this Chapter.

Same as quality control of materials, it is essential for the project client to set up a team of site supervisory staff with sufficient manpower and relevant expertise, deployed either in-house or from its consultant, if one is engaged, to ensure that the supervision system for works on site or in factories outside Hong Kong is effectively executed. The site supervisory staff should also be subject to stringent integrity requirements and provided with regular reminders and training for enhancing their corruption prevention capability and awareness.

3.2 Key Procedures

The following key procedures related to site supervision of works are covered in this Chapter –



3.3 Major Corruption Risks

Common risks of corruption and malpractices in site supervision of works include the following –

- **Preparation of supervision requirements** – Ambiguous works supervision requirements resulting in exercising of undue discretion in accepting works, and lack of requirements on submission of inspection forms leading to works being covered up without inspection.
- **Conduct of works inspections** – Improper / absence of written records of inspection results undermining the accountability of the inspections.
- **Monitoring of inspections** – Lack of supervisory checks on the inspection results creating room for connivance at substandard works being undetected, and lax monitoring of the inspection forms submitted giving rise to risks of works being covered up without inspection.
- **Inspection of works in factories outside Hong Kong** – Acceptance of advantage or frequent / lavish entertainment by site supervisory staff while performing works supervision duties in factories outside Hong Kong, giving rise to risks or allegations of favouritism and lax supervision.

3.4 Red Flags

The following are some examples of warning signs in works supervision where the management should pay more attention to in order to safeguard against possible corruption and malpractices.

Integrity of site supervisory staff
Site supervisory staff have dubious relationship with staff of contractors / subcontractors (e.g. having frequent or lavish entertainment together after office hours).

Submission of inspection forms
Contractors submit a large number of inspection forms before a long holiday requesting for frequent inspections during the holiday when only a very small number of site supervisory staff are on site.

Inspection of works
There are frequent repeated rejections of contractors' works without proper and sound justifications; and inspections of particular quality or safety-critical works are always conducted after office hours despite that the works are not urgent.

Deployment of workers / equipment
Contractors suddenly deploy on site a large number of workers or equipment which are normally not necessary for the works during a long holiday.

Documentation of inspection results
Descriptions of works recorded in inspection forms do not match with those in QSSP; photographs used in inspection forms do not show clearly important details of the works constructed or if shown, photographs in different inspection forms are identical or very similar; and identities of site supervisory staff recorded in inspection forms could not be traced.

Safekeeping of inspection forms
There is a sudden loss of inspection forms for inspections conducted for a particular works and / or during a particular period of time.

Complaints against substandard works
Frequent complaints about the quality of certain works and extensive replacement or repair of works is required before or shortly after completion of the works.

3.5 Case Studies

Case One – Offering Advantage for Lax Supervision

A contractor was awarded a public works contract, part of which was sublet to a subcontractor. In order to "sweeten" the site manager of the contractor for lax supervision, two directors of the subcontractor agreed to offer a monthly amount of $30,000 to the site manager. Over a period of 33 months, the directors issued 33 cheques amounting to about $1 million to the site manager. The directors were found guilty of conspiracy to offer advantage to an agent, contrary to Section 9(2) of POBO, and were each sentenced to imprisonment.

Case in Perspective
Contractors / subcontractors undertaking public works contracts are usually subject to probity requirements prohibiting their staff from offering, soliciting and accepting advantage when performing duties in relation to the contracts. Non-compliance of their staff with the probity requirements may not only render the staff liable to criminal offences under POBO, the contractors / subcontractors concerned may also be subject to contractual sanctions and / or regulatory actions (e.g. debarred from bidding future public works contracts).

Case Two – Falsified Works Measurement Records

A subcontractor carried out steelworks for a public works contract. Under the contract, the steelworks were subject to stressing operations with the elongations of the steelworks measured and recorded, which had to comply with the specifications. On several occasions, an engineer of the subcontractor ignored the actual measurements of the steelworks reported by his subordinates and used false measurements instead to deceive the client to accept the steelworks, dispensing with the need to carry out rectification works. The engineer's malpractice was nevertheless discovered during a spot check conducted by the client's site supervisory staff. The engineer was found guilty of fraud and was sentenced for imprisonment.

Case in Perspective
Although the case did not involve solicitation or acceptance of advantage, the use of falsified measurement records to secure the acceptance of substandard works had put the integrity of the structure and public safety at stake. The case shows that an effective and sound supervision system comprising regular and / or random spot checks on site is essential to detect and deter malpractices and hence ensure the quality of works.

3.6 Checklist for Corruption Prevention

3.6.1 Quality Site Supervision Plan

- Project consultants should draw up a QSSP which contains a list of critical construction activities and structural elements and their supervision requirements, the level of supervision and the rank of site supervisory staff competent to perform the supervision and sign the inspection forms.
- For projects which are also subject to the Buildings Ordinance (BO, Cap. 123), the contractor is required to draw up a Supervision Plan (SP) complying with the requirements in BO including the Technical Memorandum for Site Supervision and the Code of Practice for Site Supervision.
- Regularly review and update QSSP / SP during the contract period with a view to incorporating any changes in the supervision requirements (e.g. change of Technically Competent Person in SP, contractor's construction methods).

3.6.2 Site Supervision of Works

3.6.2.1 Notification of Works

- Require the contractor to submit in advance an inspection form requesting for inspection of works for critical activities in QSSP / SP, and include in the inspection form essential information (e.g. details of the works to be inspected such as description and location of works, the proposed inspection time).

3.6.2.2 Inspection and Documentation of Works

- Assign competent site supervisory staff to inspect the works as required under QSSP / SP.
- Record the inspection results, time of inspection and the identity and signature of the inspecting officer on the inspection form, with supporting photographs.
- Establish a mechanism on reporting and following-up of both major and minor non-compliances / non-conformities identified during inspection.

3.6.3 Supervisory Checks / Management Oversight

- Subject the inspection results of site supervisory staff to regular / random supervisory checks and properly document the checks.
- Monitor the submission of inspection forms to ensure the contractor has submitted inspection forms for all critical activities in QSSP / SP and all critical activities have been inspected with results properly documented.
- Compile management reports to monitor the inspection progress and results.

3.6.4 Digitalisation of Works Supervision

To enhance the control and efficiency on quality of works, project clients and / or their consultants are advised to adopt digital works supervision system which may comprise a web-based portal for collecting construction works information and managing the workflows of site activities. In developing the digital works supervision system, project clients / consultants are advised to adopt the "SMART" principles (i.e. **S**implicity, **M**obility, **A**ccountability, **R**obustness, and **T**ransparency, ***Annex 2***) and make reference to the following key recommended measures.

3.6.4.1 Security of Works Supervision System

- Specify clear performance requirements (e.g. audit trail, automatic sending of notifications / alerts) of the system.
- Allow access to the system only by authorised users with unique user accounts and passwords.
- Equip the system with an audit trail function logging the creation of and any changes to the inspection results.
- Store the inspection results in a local server and a cloud-based system.
- Conduct user acceptance tests to ensure all performance requirements are complied with.

3.6.4.2 Digitalisation of Workflows

- Digitalise the workflows for submission of inspection forms, assignment of site supervisory staff, recording, countersigning and acknowledgement of inspection results.
- Allow the use of mobile devices for recording works inspections (e.g. identities of the site supervisory staff, date / time and results of inspections) and taking of photographs as attachment to support the inspections.
- Facilitate supervisors to conduct real-time checks / verification of inspection results with such checks documented in the system.
- Enable the generation of management reports to detect irregularities (e.g. an inspection form submitted for a long time without an inspection).

3.6.4.3 Automation of Site Supervision Processes

- Automate manual processes in site supervision as far as possible to avoid errors, inaccuracy or manipulation (e.g. allow selection of inspection items from a database, generate automatic notifications alerting the submission of inspection forms and the taking of timely actions against late submission of inspection forms).

3.6.4.4 Integration with Other Computer Systems

- Integrate with other computer systems (e.g. BIM) to form a common data platform through which useful information can be shared and utilised with one another to enhance effectiveness in detecting anomalies and deterring manipulations.

3.6.5 Supervision of Works in Factories Outside Hong Kong

In general, project clients and / or their consultants are advised to adopt the same standard of quality control of materials (⇒ *Sections 2.6.1-2.6.5*) and supervision of works (⇒ *Sections 3.6.1-3.6.4*) for construction activities both on site and in factories outside Hong Kong, and make reference to the following recommended measures for arrangements specific to works in factories outside Hong Kong.

3.6.5.1 Arrangement of Accommodation and Transportation for Site Supervisory Staff

- Specify in QSSP / SP supervision requirements for inspection of works in factories outside Hong Kong including the following requirements –
  - Keep the number of persons joining such inspections to the minimum necessary (e.g. two persons);
  - Require site supervisory staff to obtain prior approval from the appropriate authority before arranging such inspections;
  - Avoid requiring contractors to directly pay for the expenses incurred during the visits, and where this is unavoidable (e.g. it is a contract requirement for the contractors to bear such expenses), issue instructions to site supervisory staff specifying the standard of accommodation, transportation, etc. they are allowed to accept; and
  - Require site supervisory staff to declare the types of accommodation, transportation, etc. actually provided by the contractor after the visits if they are beyond the allowable standard.

3.6.5.2 Transportation and Acceptance of Prefabricated Components Delivered to Site

- Install tracking devices on trucks / barges delivering prefabricated components such as free-standing modules adopting Modular Integrated Construction from factories to construction sites with records of the delivery route and destination maintained which are subject to regular or random checks to ensure traceability and proper delivery.
- Require site supervisory staff on site to check the prefabricated components (e.g. size, dimensions) upon their delivery.

CHAPTER 4

ICAC SERVICES

4.1 Advisory Services

4.1.1 For Government Departments and Public Bodies

The Corruption Prevention Department (CPD) of the ICAC has the statutory duties to, among others, provide corruption prevention advice to government departments and public bodies on their work procedures and practices. Individual government departments / public bodies are welcome to contact CPD for corruption prevention advice on using this Guide or any other matters through the appointed liaison points of the respective Corruption Prevention Groups or Liaison Groups.

4.1.2 For Private Organisations and Individuals

The Corruption Prevention Advisory Service (CPAS) of CPD provides free, confidential and tailor-made corruption prevention advice to organisations and individuals, in particular those in the private sector. Individual government departments / public bodies are advised to encourage their business partners, consultants, contractors and service providers to seek CPAS services to help strengthen staff integrity management and corruption prevention system in site supervision and other business areas or functions, such as procurement, contract administration, stores management and staff administration. CPAS pledges to respond to a request for service within two working days, and can be contacted through the following channels –

- Telephone : 2526 6363
- Fax : 2522 0505
- Email : cpas@cpd.icac.org.hk
- Website : cpas.icac.hk

4.2 Reporting Corruption

Any person encountering corruption should make a report to the ICAC through the following channels –

- Telephone : 25 266 366 (24-hour service)
- Mail : G.P.O. Box 1000, Hong Kong
- In person : ICAC Report Centre (24-hour service)
  G/F, 303 Java Road, North Point, Hong Kong

  ICAC Regional Offices[8]
  (opening hours: 9:00 a.m. - 7:00 p.m. Monday to Friday;
  closed on Saturdays, Sundays and public holidays)

8 *Contact information of the ICAC Regional Offices are available at http://www.icac.org.hk/en/crd/struct/ro/index.html.*

ANNEX 1

Extract of Prevention of Bribery Ordinance

Section 2 – Interpretation

"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),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

"Agent" includes a public servant and any person employed by or acting for another.

"Entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

"Prescribed Officer" means –

(a) any person holding an office of emolument, whether permanent or temporary, under the Government; and

(b) the following persons (to the extent that they are not persons included in paragraph (a)) –

   (i) any principal official of the Government appointed in accordance with the Basic Law;

   (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) and any person appointed under section 5A(3) of that Ordinance;

   (iii) Chairman of the Public Service Commission;

   (iv) any member of the staff of the Independent Commission Against Corruption;

   (v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary.

"Principal" includes –

(a) an employer;
(b) a beneficiary under a trust;
(c) a trust estate as though it were a person;
(d) any person beneficially interested in the estate of a deceased person;
(e) the estate of a deceased person as though it were a person; and
(f) in the case of an employee of a public body, the public body.

"Public Body" means –

(a) the Government;
(b) the Executive Council;
(c) the Legislative Council;
(d) any District Council;
(e) any board, commission, committee or other body, whether paid or unpaid, appointed by or on behalf of the Chief Executive or the Chief Executive in Council; and
(f) any board, commission, committee or other body specified in Schedule 1.

"Public Servant" means any prescribed officer and also any employee of a public body and –

(a) in the case of a public body other than a body referred to in paragraph (aa), (b) or (c) of this definition, any member of the public body;
(aa) in the case of a public body specified in Schedule 2 –
  (i) an office holder of the public body (other than an honorary office holder) ;
  (ii) any member of any council, board, committee or other body of the public body which is vested with any responsibility for the conduct or management of the affairs of the public body;
(b) in the case of a public body which is a club or association, any member of the public body who –
  (i) is an office holder of the body (other than an honorary office holder); or
  (ii) is vested with any responsibility for the conduct or management of its affairs;
(c) in the case of a public body which is an educational institution established or continued in being by an Ordinance, any officer of the institution and, subject to subsection (3), any member of any council, board, committee or other body of the institution, which is itself a public body, or which –
  (i) is established by or under the Ordinance relating to the institution;
  (ii) is vested with any responsibility for the conduct or management of the affairs of the institution (not being affairs of a purely social, recreational or cultural nature); and
  (iii) is not excluded under subsection (3),

whether the employee, officer or member is temporary or permanent and whether paid or unpaid, but –

(A) the holding of a share by a person in a company which is a public body; or
(B) the entitlement of a person to vote at meetings of a club or association which is a public body,

shall not of itself constitute that person a public servant.

Section 3 – Soliciting or accepting an advantage

Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence.

Section 4 – Bribery

(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's –

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

(4) For the purposes of subsection (3) permission shall be in writing and –

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 8 – Bribery of public servants by persons having dealings with public bodies

(1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

Section 9 – Corrupt transactions with agents

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –

(a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or

(b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –

(a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or

(b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document –

(a) in respect of which the principal is interested; and

(b) which contains any statement which is false or erroneous or defective in any material particular; and

(c) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

(5) For the purposes of subsection (4) permission shall –

(a) be given before the advantage is offered, solicited or accepted; or

(b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 19 – Custom not to be a defence

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

ANNEX 2

"SMART" Principles in Digital Works Supervision System

The "SMART" principles comprise **S**implicity, **M**obility, **A**ccountability, **R**obustness and **T**ransparency for the development of a digital works supervision system.

1. Simplicity

- To tackle the integrity risks brought about by the manual process and certain cumbersome procedures, a digital works supervision system should be more than just turning physical copy of the inspection form into a soft copy, but should also involve necessary process re-engineering with a view to simplifying and standardising the process while maintaining adequate safeguards in the computerised system.
- ***Standardisation*** could be achieved through developing digital templates (e.g. inspection forms, inspection checklists) and a set of standard coding system for various construction activities / inspection items / findings, etc. so as to facilitate easy recording, processing and retrieval of records.
- The works supervision system should include, but not limited to, the following workflows –
  - management of inspection forms and inspection records;
  - management of construction materials;
  - management of inspection, test and measuring equipment;
  - management of "minor" non-conformities; and
  - management of non-conformity reports.

2. Mobility

- Currently, the lack of hand-held devices and mobile technology hinders inspection team from making inspection records in a timely manner. Undoubtedly, the use of suitable mobile technology (e.g. hand-held devices) is an integral part of an effective works supervision system. The use of mobile technology facilitates ***real-time*** and ***on-the-spot*** data capture / transfer regarding the quality and conditions of works on-site, thereby enhancing monitoring. The relevant data / records should be made contemporaneously which help ensure the traceability of site records and facilitate compliance check instantly.
- For effective implementation, consideration should be given to issuing mobile phones and / or hololens installed with cloud-based apps to the inspection team to facilitate real-time capture and instant transfer of inspection findings to cloud for storage. Furthermore, technology (e.g. Augmented Reality) can be adopted to enable the inspection team to overlay the latest approved construction details on site environment for counter-checking with the as-built works in order to facilitate the easy identification of defects.

3. Accountability

- With the manual process and physical copy of inspection records, it is time-consuming and sometimes difficult to trace the site supervisory staff responsible for any irregularities detected. The responsibilities of different project stakeholders should be clearly defined in the digital system / platform, so that the "right" person is vested with the responsibilities, and followed by digital capture of their duty performance and actions. Thus their ***accountability*** for specified processes / decisions can be greatly enhanced. All electronic records in the digital system should be admissible in court in case there are any legal proceedings in future.
- Photographs / videos should be provided to support the inspection results to enhance accountability. Such can be taken by hand-held devices which are capable of capturing the date / time and location of the photographs / videos taken and uploading them to the works supervision system on a real-time basis.
- To enhance ***traceability*** of works inspected, wearable technology (e.g. smart helmet) can be used to enable the capture of the whereabouts of workers and which parts of works they are responsible for.
- For quality / safety-critical materials (e.g. steel reinforcing bars), consideration should be given to the use of information technology (e.g. BIM) to record and manage information about where the materials are manufactured, stored and used including the locations where they are finally used to enhance traceability of the materials.

4. Robustness

- The principle of "Robustness", from the corruption prevention and governance perspectives, mainly comprises the following two dimensions: system and data security; and the robustness and integrity of the processes. Harm caused by security threats could be financial, physical or reputational. The works supervision system should be built in with adequate security measures to guard against misuse, loss, leakage or unauthorised access and amendments of data.
- Technologies such as blockchain can be explored to enhance security and integrity of important information / records (e.g. inspection results, as-built plans), facilitate automation of manual processes (e.g. certification of payment, issue of completion certificates) to prevent errors and manipulation, preserve construction data (e.g. operation manual of equipment, warranty of waterproofing) to enhance traceability of parties responsible for defects, etc.
- The application of Internet of Things and Artificial Intelligence can also be explored to enable the continuous and real-time collection and analysis of data for monitoring.
- The feasibility of building in the works supervision system integrity risk indicators can be explored to enhance monitoring. For instance, video cameras can be installed at strategic locations to capture images for analysis to prevent "unauthorised works / process". Taking concreting as an example, if no inspection form has been received for concreting, the detection of a concrete truck on site should trigger an alert to the inspection team via the system.

5. Transparency

- Greater transparency exposes processes to monitoring / scrutiny by more stakeholders, thereby helping to deter corruption / malpractices, or facilitate their detection should there be any. An open, central and compatible platform fosters communication and collaboration among different stakeholders of a project. The system should provide a common data environment for keeping the information generated from different computer systems / programs.
- The workflows in the digital works supervision system and the respective action / reporting / approving parties in individual key stages should be clear, preset in the system, and made transparent to all relevant parties to help ensure compliance and detect irregularities.
- The system should enable auto-alerts generated to prompt and ensure actions required (e.g. submission of inspection forms and conduct of inspections) are carried out in a timely and proper manner.
- Moreover, the system should be capable of generating management reports showing the inspection status (e.g. time taken to complete inspections) to enhance monitoring by different stakeholders.
- All systems and records can be BIM-compatible to facilitate the access to and sharing of the information by all stakeholders in a common data environment / platform. All project details (e.g. design changes) with their status (pending approval or approved) can be uploaded to BIM to enhance transparency.

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