

Integrity of Owners' Corporations Brings Quality Maintenance

Corruption Prevention Tips on Maintenance Projects

Building maintenance projects usually incur great expenses, with owners' corporations (OCs) playing a pivotal role in the whole project. Ignorance of the importance of corruption prevention will lead to corruption and malpractice, thus affecting the cost and quality of the project and even jeopardizing residents' safety and environmental hygiene.

The ICAC has dealt with many corruption cases about maintenance projects before. Not only would the relevant OCs suffer financial loss, individual OC members would also find themselves landed in jail. As an OC chairman and member, what effective measures could you take to minimize the corruption risk which maintenance projects may face and achieve integrity management?

This leaflet briefly explains the corruption opportunities and prevention measures in various procedures of maintenance projects as well as relevant legal provisions and ICAC services. The purpose is to help OCs raise their alertness to corruption to avoid committing an offence inadvertently and adopt effective measures to safeguard against and report corruption and malpractice.

Corruption Prone Areas and Preventive Measures

Invite tenders/Receive tenders

- take bribes for disclosing and altering the contents of the tenders received or accepting late tenders
- set tender specifications conducive to bribing engineering consultants or contractors or only invite them to tender and engage in tender collusion.

Corruption Prevention Tips

- set up a panel consisting of OC members and owners for tendering work and set tender specifications and invite open tenders according to actual needs.
- document and properly keep the tenders received and refuse late tenders.

Tender assessment/Negotiation

- accept bribes for favouring the colluding engineering consultant or contractor when assessing tenders.
- Separate price negotiation or manipulation of contract contents after tender

opening in order to seek private gains.

Corruption Prevention Tips

- panel to draw up objective assessment criteria, select suitable engineering consultant or contractor and document the assessment results and justifications for owners' reference.
- clearly stated contract terms for assessing and monitoring the works progress and quality.

Works/Acceptance

- accept bribes for lax supervision over works in progress.
- accept bribes for accepting overdue or substandard works.

Corruption Prevention Tips

- strictly monitor the works progress and quality, record and follow up discrepancies and regularly report to the owners.
- evaluate and accept works according to the standard and specifications stated in the contract.

Finance/Payment

- conspire to exaggerate or falsely report works expenses.
- advance or delay payments in order to make private gains.

Corruption Prevention Tips

- document project expenses and keep relevant receipts and pictures for verification and inspection.
- release works payment according to the works progress, contract terms and valid documentary records.

Stem Corruption Through Observing Rules and Regulations

To effectively prevent corruption and promote an integrity culture, OCs should formulate guidelines on acceptance of advantages and handling of conflicts of interest, as well as enhance the personal integrity of their members, salaried employees and engineering consultants/contractors. The guidelines may be promulgated in the form of code of conduct, standing order, notice or contract terms for the compliance of relevant persons. It is also necessary to raise their understanding about the Prevention of Bribery Ordinance so that they will

become vigilant against corruption when dealing with OC affairs and will neither offer nor accept bribes.

Section 9 of the Prevention of Bribery Ordinance *

- Any agent (OC Management Committee member or employee, engineering consultant/contractor hired by the OC Management Committee) who, without the principal's (OC) permission, uses his capacity to solicit or accept an advantage shall be guilty of an offence; offeror of an advantage shall also be guilty of an offence.

Example: A director of a construction company offers a bribe amounting to five percent of the contract sum of a building renovation project to the Chairman and Treasurer of an OC in return for their helping the construction company secure the contract.

- Any agent who uses a false, erroneous or incomplete receipt, account or other document to deceive his principal shall also be guilty of an offence.

Example: A technician of a property management company conspires with a paint supplier/proprietor to use a receipt of inflated paint quantity to defraud payment from the OC in carpark external wall maintenance works.

- Penalty: Maximum fine of \$500,000 and imprisonment of seven years

** This leaflet only provides general guidance. In case of doubt, readers should refer to the laws or seek legal advice.*

Conflict of Interest

- When the private interests of an OC member or employee, engineering consultant/contractor hired by the OC compete with the interests of the OC, it is necessary to make a declaration to the OC and avoid suspicion to show fairness. Although a conflict of interest situation or failure to make a declaration may not constitute an offence, the person concerned may be suspected and complained of abuse of power or favouritism.

Example: An OC Secretary recommends to the OC his brother's company for undertaking a project without declaring their relationship to the OC.

Reporting Corruption is the Best Strategy

In case anyone offers bribes to you or solicits bribes from you or you discover any corrupt behaviour, you should immediately report to the ICAC and never

hesitate or endure it in order not to suffer any loss or be accused of collusion. All information provided to the ICAC will be treated in strictest confidence. You may use any of the following means to report corruption:

In person: ICAC Report Centre, ICAC Building, 303 Java Road, North Point (24 hours) or any regional offices of the ICAC (Opening hours: 9:00 am – 7:00 pm on Monday to Friday; close on Saturdays, Sundays and public holidays)

By phone: 24-hour ICAC hotline 25 266 366

By mail: Hong Kong PO Box 1000

Integrated ICAC Services

ICAC will provide the following free services to OCs according to their individual conditions and needs:

- formulate code of ethics for OC members/employees – including policy on acceptance of advantages in relation to OC business and guidelines for handling conflicts of interest in maintenance projects
- improve operational procedures – strengthen control systems and measures on tendering, management and financial arrangement of works contracts
- arrange corruption prevention talks – enhance OC members' understanding about the relevant laws, corruption prevention awareness and handling skills
- receive corruption reports and enquiries

If you need the above services, please visit the ICAC Website (www.icac.org.hk) or call the ICAC corruption prevention hotline on building management: 2158 5920.