
Preface

Achieve more in Building Rehabilitation with Active Participation and Lucid Workflow

‘Prevention is better than cure.’ This popular proverb, originally refers to the benefits of early detection and intervention for diseases, has homologous implications for building rehabilitation, in that regular and timely repair and upkeep is essential and efficacious in maintaining the sound overall condition of the building and hence, its safety and hygiene standards.

While rehabilitation of common parts of a building serves the interest of all owners, *fragmented ownership* remains the key obstacle for the majority of private buildings in Hong Kong to plan for building rehabilitation, not to mention the general lack of a solid understanding of the planning and management of building rehabilitation (which often involves professional tasks) among owners, which further dampens the confidence needed to reach consensus and organise rehabilitation works.

Drawing on years of experience in facilitating building rehabilitation, **the Urban Renewal Authority (URA)** understands owners’ hesitation and difficulties in the face of building rehabilitation which involves not just exorbitant expanses but also myriad uncertainties and pitfalls arisen from the lack of knowledge about the building rehabilitation workflow and the roles, rights and responsibilities of stakeholders, including the owners themselves, the owners’ organisations, the property management company, work consultants and contractors, etc., not to mention the meagre information available for reference and comparison concerning the scale and cost of works. The URA believes that with better access to information and support, owners can have a better grip on and confidence in building rehabilitation, thereby facilitating its completion with a reasonable price and conducted under open, fair and just process through which disputes can be minimised.

With this in mind, the ‘Building Rehabilitation Platform¹’ administered by **Hong Kong Building Rehabilitation Facilitation Services Limited (a wholly-owned subsidiary of the URA)** publishes this *Building Rehabilitation Guidebook* (the ‘Guidebook’) to offer perspicuous guidelines on the rehabilitation and maintenance of common parts of buildings, with a view to facilitating proper planning and implementation of rehabilitation works for buildings with an **Owners’ Corporation (OC)** (some of the content may also be useful reference for buildings without an OC). Laid out cohesively in ‘6 Steps to Building Rehabilitation²’, the Guide covers information on building rehabilitation, from preparation to procurement of work consultants and contractors, and to supervision and implementation, alongside supplementary ‘Simulated Scenarios’ and ‘Useful Tips’ to offer a realistic illustration of current building rehabilitation such that readers may take heed of possible misconducts in the process of building rehabilitation. In addition to citations of legislative provisions in force, suggested procedures and measures are also provided as recommended operation routine³. Last but not least, timely repair and maintenance are as important in private residential units as they are in common parts of buildings for the whole building to maintain its structural safety and hygiene.

¹ “Building Rehabilitation Platform” is a one-stop information platform offering owners comprehensive information and support in various professional fields under the auspices of relevant professional organisations, institutions and industry representatives. The URA has formed a subsidiary (**Hong Kong Building Rehabilitation Facilitation Services Limited**) to manage the operation of the Platform, under which three committees, namely Technical Committee, Service Providers Committee and Promotion Committee, are tasked with formulating plans and execution details concerning the best practice guidelines and regulations, cost estimation references, dedicated tender and contract templates for building rehabilitation, and service provider database available on the Platform.

² Refers to the 6 main procedures/steps to building rehabilitation. Please also refer to ‘Building Rehabilitation Platform’ website (www.brplatform.org.hk) for viewing of videos introducing each procedure concerning building rehabilitation.³ All simulated scenarios/examples in this Guidebook (which are entirely fictitious and for reference only, where no identification with actual persons or entities is intended or should be inferred) are intended to illustrate the possible misconducts in the process of building rehabilitation works as a reminder for **owners/OCs** to take heed of such risks and to appoint ethical registered work consultants and work contractors to carry out rehabilitation works.

³ All simulated scenarios/examples in this Guidebook (which are entirely fictitious and for reference only, where no identification with actual persons or entities is intended or should be inferred) are intended to illustrate the possible misconducts in the process of building rehabilitation works as a reminder for **owners/OCs** to take heed of such risks and to appoint ethical registered work consultants and work contractors to carry out rehabilitation works.

How to Use this Guidebook Effectively

This guide uses the following icons to facilitate quick search for necessary information:



Scan QR Codes to Watch Videos on ‘Building Rehabilitation Platform’ Website



Understand the Major Tasks in Building Rehabilitation



Useful Tip



Simulated Scenario



Refer to the Specified Section in this Guide



References



Document / Form / Template



Appendix – Relevant Information

Acknowledgement

This Guidebook was prepared by **Hong Kong Building Rehabilitation Facilitation Services Limited (a wholly-owned subsidiary of the URA)** in 2019. The following government departments, statutory bodies and professional organization for their valuable comments and contributions are gratefully acknowledged.

Government departments and statutory bodies	Professional organization (names not listed in order)
Buildings Department	Building Services Operation and Maintenance Executives Society Hong Kong Limited (BSOMES)
Fire Services Department	Chartered Association of Building Engineers Hong Kong Chapter (CABEHK)
Home Affairs Department	Contractor's Authorised Signatory Association Limited (CASA)
Independent Commission Against Corruption (ICAC)	Hong Kong General Building Contractors Association Limited (HKGBCA)
Hong Kong Housing Society	Hong Kong Institution of Certified Auditors Limited (HKICA)
	Hong Kong Institute of Construction Managers, Limited (HKICM)
	Hong Kong Institute of Certified Property Manager Limited (HKCPM)
	Professional Building Surveying Consultants Association of Hong Kong Limited (PBSCA)
	Registered Minor Works Contractor Signatory Association Limited (RMWCSA)
	The Association of Architectural Practices Limited (AAP)
	The Association of Registered Fire Service Installation Contractors of Hong Kong Limited (FSICA)
	The Chartered Institute of Building (Hong Kong) (CIOB-HK)
	The Federation of Hong Kong Property Mgt Industry Limited (FHKPMI)
	The Hong Kong Association of Property Management Companies Limited (HKAPMC)
	The Hong Kong Construction Association, Limited (HKCA)
	The Hong Kong Institute of Architects (HKIA)
	The Hong Kong Institute of Clerks of Works (HKICW)
	The Hong Kong Institute of Engineers (HKIE)
	The Hong Kong Institute of Housing (HKIH)
	The Hong Kong Institute of Surveyors (HKIS)
	Hong Kong Registered Contractors Association Co., Limited (HKRCA)
	The Institute of Clerks of Works and Construction Inspectorate (Hong Kong) (ICWCI)
	RICS International Limited (RICS)

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Disclaimer

This Guidebook provides general guidance only and does not purport to deal with all possible issues that may arise in any given situation. Explanations of the legal requirements under the relevant Ordinances are necessarily general and abbreviated from the layman's angle, and are based on those as applicable at the time of publication of this Guidebook. Steps and practices in relation to the management of building maintenance projects are by no means prescriptive or exhaustive, and do not preclude the need to seek professional technical advice and assistance from relevant professionals. Users of this Toolkit should seek legal advice or consult the relevant authorities in respect of the detailed requirements in force and professional advice and assistance in the carrying out of building maintenance projects as and when necessary. The **Hong Kong Building Rehabilitation Facilitation Services Limited** and its partners in the production of this Guidebook will not accept any liability, legal or otherwise, for loss occasioned to any person acting or refraining from action as a result of any material in this publication.

The cases and scenarios given in this Guidebook are for illustration only. No relation to any real person or entity is intended or should be inferred. The cases are intended to clarify some of the misconduct that may occur in a building rehabilitation project, thereby reminding the owner/corporation to pay attention to these risks and appoint qualified works consultant and works contractor to carry out building rehabilitation works.

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6 Steps to Building Rehabilitation



Seek Owners' Consensus on Rehabilitation

 Please refer to Step 1 (Page. 2)



Engage Professional Works Consultant for the Rehabilitation Project

 Please refer to Step 2 (Page. 68)



Conduct Building Inspection and Prepare Tender Documents

 Please refer to Step 3 (Page. 131)



Engage Works Contractor for the Rehabilitation Project

 Please refer to Step 4 (Page. 154)



Commence Works and Work Sites Supervision

 Please refer to Step 5 (Page. 184)



Inspection for Acceptance of Works and Confirm Completion

 Please refer to Step 6 (Page. 202)





Seek Owners' Consensus on Rehabilitation



Step 1 Milestones:

1.1 Understand Building Rehabilitation Thoroughly

- To understand why a building needs rehabilitation
- To understand owners' responsibilities in building rehabilitation and the consequences of its neglect
- To commence preparation tasks for building rehabilitation



1.2 Form an Owners' Corporation (OC) (Applicable to Buildings without OCs)

- To understand *Building Management Ordinance* and Deed of Mutual Covenant (DMC) of the building
- To understand the purpose, benefits, methods and procedures of forming an OC
- To understand the way through which building rehabilitation can be organised without an OC
- To understand the roles and responsibilities of each party involved



1.3 Convene Owners' Meetings about the Rehabilitation Project

- To understand the procedures and regulations of meetings



Step 1: Seek Owners' Consensus on Rehabilitation



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

Section 1.1 Understand Building Rehabilitation

The first hurdle found in the planning of building rehabilitation, whether initiated voluntarily or done as requested by 'statutory orders/notices' on account of serious disrepair, is likely to concern the communication of the reasons behind and necessity of it to the owners.

To get it done smoothly and effectively, the first and foremost step is to get consensus among owners. Given its importance at the initial stage of building rehabilitation, owners are recommended to:

- (i) Properly and clearly communicate the reasons for building rehabilitation and the consequences of its neglect;
- (ii) Acquire useful information related to building rehabilitation;
- (iii) Understand the workflow of building rehabilitation and points to note at each stage.

Proper preparation helps not only buttresses owners' confidence in the intended project, but also minimises hiccups, disputes or misunderstandings in the future.

1.1.1 Why a Building Needs Rehabilitation

Reasons for Rehabilitation

To thoroughly understand building rehabilitation is to grasp it by the root, i.e. its purpose. Under general circumstances, an owner is driven by either one of the following reasons to set about getting his building rehabilitated:

- (1) Comprehensive rehabilitation voluntarily initiated by owners on account of obvious defects (voluntary);
- (2) 'Statutory orders/notices' issued by relevant authority prescribing mandatory rehabilitation of the building in serious disrepair (mandatory¹).

¹ Under the Mandatory Building Inspection Scheme (MBIS) commenced in 2011, each year the Government will serve notices on **owners** of target buildings aged 30 years or above demanding that inspection and relevant repair works to be done.

Useful Tip

What are ‘statutory orders/notices’?

When a building is found to be in a disrepair state that poses a threat to public safety or health, the relevant government departments (e.g. the **Buildings Department (BD)**) will intervene and advise/enforce on the **owners/OCs** that relevant repair works be carried out duly. It is the responsibility of the **owners/OCs** to comply with the statutory orders issued by the **BD** to carry out repair works immediately.

The **BD** will not initiate any works on behalf of the owners unless in exigent situations or when the **owners/OCs** concerned fail to comply with the orders, in which case the owners will be charged for the relevant works and their supervision plus surcharges upon work completion. The **BD** may take legal action against any **owners/OCs** failing to comply with the prescribed orders without reasonable excuse. Pursuant to the *Buildings Ordinance*, any person who fails to comply with an order served on him without reasonable excuse shall be guilty of a criminal offence and shall be liable on conviction to a fine and to imprisonment.

All statutory orders issued by the **BD** will be recorded on The Land Registry and will be rescinded upon compliance. Such records may impede transactions of the building concerned.

 **To understand common ‘statutory orders/notices’–Please refer to [Appendix I](#)**

Take Heed of Building Defects for Timely Rehabilitation

In the life cycle of a building from occupation to demolition, individual elements and facilities have individual needs for repair and maintenance to extend the life expectancy of the building.

 **For the building rehabilitation glossary–Please refer to [Appendix II](#)**

In general, one or more of the following may be found in the structures and their relevant facilities of a building in disrepair²:

- Defects on building structures and finishes, such as damaged concrete, spalled or loosened ceiling rendering, defective internal walls and exterior finishes/mosaic tiles;
- Defects on fire safety provision, such as damaged or removed fire doors, unauthorised ventilation openings on enclosed walls along exit stairways;
- Defects on building facilities and installations, such as defective water/power supply facilities, drainage system, fire service provisions, lifts and escalators;
- Defects on slopes and retaining walls, such as cracked protective surfaces and drainage pipes;
- Defects on windows, such as broken hinges and loosened anchors;
- Defects on objects attached to external walls³, such as rust or loosening; and
- Defects on waterproof works, such as defective water seepage and waterproof membrane at the rooftop.



To find out more common building defects, their general causes and solutions – Please refer to [Appendix III](#)

Benefits of Rehabilitation

Timely rehabilitation and proper management of buildings benefit owners, residents, neighbours and society as they:

- Improve the living environment;
- Minimise the possibility of being served with statutory orders/notices by relevant government departments;
- Avoid depreciation of the building caused by disrepair;
- Prolong the usable period of the building;
- Ease the urgency of demolition and reconstruction of the building;
- Alleviate rapid ageing of urban districts.

² Source: *Building Maintenance Toolkit* published by the **Independent Commission Against Corruption (ICAC)**.

³ Objects attached to external walls of buildings include but not limited to eaves, decorative linear reliefs, projections, architectural elements, air conditioners, canopies, balconies, clothes racks, projective panels and external protections etc.

1.1.2 Responsibilities in Building Rehabilitation and the Consequences of its Neglect

Owners' Responsibilities

While the majority of private property owners are aware that it is their responsibility to repair any defects found in their properties to ensure home and public safety, few of them realise that this responsibility extends beyond the flats they occupy to cover also the 'common parts' of the building shared among all owners. Failure to understand this or underestimate/neglect the consequences of disrepair may result in disagreement among owners at any stage of building rehabilitation from planning to implementation, leading to frequent misunderstandings and disputes that may impede or overwhelm the entire project.

Useful Tip

What are 'common parts' of a building?

Examples include the water supply system and water pipes of the building through which tap water runs, as well as the corridors, lifts and lobbies through which people traverse. These are some of the facilities used daily by owners without being aware of their status as 'common parts' of the building. Owners should refer to the 'Deed of Mutual Covenant' (DMC) and floor plans of the building they occupy for the 'common parts' covered therein.



A Guide on Building Management Ordinance (Cap. 344) by the Home Affairs Department



What is 'DMC'? – Please refer to [Section 1.2.2](#)

Consequences of Neglecting Building Defects

If an **owner** ignores defects of his building or refuses to comply with the 'statutory orders/notices' issued by relevant government departments, serious consequences may arise. When a building falls into disrepair, the living environment and hygiene are worsened, and along come safety threats. In extreme cases, structural defects may cause objects to fall off or, worse still, collapse of the building, resulting in life casualties and damage to property, to which claims may be made for compensation, followed possibly by criminal proceedings and other serious consequences.



Useful Tip

Third-party risks insurance

Pursuant to Section 28 of the *Building Management Ordinance*, all OCs shall procure and keep in force in relation to common parts of the building and the property of the OC a policy of third-party risks insurance. The minimum insured amount of each policy shall be \$10 million per event.

According to the Hong Kong Federation of Insurers, OCs purchasing third party risks insurance may be requested to provide information on the conditions of the building concerned, including the existence of unauthorised structures, and OC's intention to carry out building rehabilitation, for the insurance company to consider the underwriting of such policy.



To learn more about buying insurance policy for a building—Please refer to [Section 6.4](#)

1.1.3 Commence Preparation Tasks for Building Rehabilitation

Form a Building Rehabilitation Task Force

Owners looking to carry out building rehabilitation may form a 'building rehabilitation task force' to coordinate the preliminary tasks of the intended project, including collection of relevant information and communication with other owners to gauge their opinions on the project.

Prevailing laws in Hong Kong do not stipulate the formation of a 'building rehabilitation task force' among owners in the course of the project. For buildings where an **Owners' Corporation (OC)** has been formed, the *Building Management Ordinance* (Cap. 344 of the Legislation of Hong Kong) prescribes that all operations concerning the OC, including the planning and implementation of preliminary tasks for building rehabilitation, shall be handled by a **Management Committee (MC)**.



To learn more about the *Building Management Ordinance*—Please refer to [Section 1.2.1](#)

Consult DMC for Terms Concerning Building Management and Rehabilitation

For buildings without **OCs**, regardless of whether or not the **owners** have formed an **Owners' Committee** or have appointed a 'manager' (i.e. the property management company of the building in general circumstances) in accordance with provisions of the DMC, any and all tasks concerning building management and rehabilitation shall be planned and implemented in compliance with the terms prescribed therein.

Useful Tip

What is Owners' Committee ?

What is an owners' committee? An owners' committee means an owners' organization formed under and in accordance with the DMC. Its composition, operation details, duties and powers shall be such as the DMC may set out. An owners' committee is not a body corporate. Where an MC has been appointed and an OC formed in respect of a building, the members of the MC shall be deemed to be the owners' committee and shall have all the functions, powers and duties of the owners' committee under the DMC.



Home Affairs Department <A Guide On Building Management Ordinance (Cap.344)>



What is the difference between the Management Committee and the Owners' Committee? – Please refer to Section 1.2.3

Useful Tip

What is a ‘manager’?

Pursuant to Section 34D(1) of the *Building Management Ordinance*, a ‘manager’, in relation to a building, means the DMC manager or any other person who for the time being is, for the purposes of the DMC, managing the building (i.e. the ‘contract manager’).

There are two types of ‘managers’:

- (1) ‘DMC manager’ means the person who is specified in the DMC to manage the building. Generally speaking, the property developer will appoint a proxy (in the usual cases one of its affiliated companies) to manage the building as ‘DMC manager’ prior to the formation of an OC. In general, the management terms are stipulated in the DMC.
- (2) ‘Contract manager’ means any other person who for the time being is, for the purposes of the DMC, managing the building. It generally refers to the ‘manager’ appointed by owners on contract terms, i.e. the property management company entering the general business contract on the management of the building with the **owners/OCs**. In general, such a contract, in which details such as fees terms are usually specified, will only be signed when its decision has been resolved at an owners’ meeting.

Termination of manager’s appointment by OC

A DMC Manager or a contract manager whose contract contain no provision for the termination of his appointment, according to BMO, Paragraph 7 of Schedule 7, the OCs may by resolution passed at a general meeting of the OC, terminate by notice the DMC managers appointment without compensation

- passed by a majority of votes; and
- supported by the owners of not less than 50% of the shares in aggregate (who are entitled to vote. Only the owners of shares who are liable to pay the management expenses relating to those shares)

If the contract of a contract manager contains provisions for the termination of the appointment, the OC shall comply with the provisions thereof, instead of applying the above mechanism to terminate the appointment (e.g. a period of not less than 3 months’ notice as provided in the contract).



A Guide On Building Management Ordinance (Cap .344) published by Home Affairs Department



To know more about Duties, Roles and Services of Manager? Please refer to Section 1.2.6

The DMC is of utmost importance with regard to building management, through which the rights, interests and responsibilities of owners are defined along with regulations and guidelines on various building management issues. For buildings without OCs, if the provisions of its DMC on building management and rehabilitation are relatively comprehensive and concrete, the owners may, in compliance with such provisions, form an **Owners' Committee** or appoint a 'manager' and convene meetings to resolve on matters concerning the repair and maintenance of common areas, as well as the apportionment of work costs, collection of funds and payment of fees, etc.

On account of the possible existence of oversimplified or ambiguous terms in many a version of DMC, if the following are not explicitly stipulated in the DMC:

- (1) that an owners' meeting has the right to resolve on the repair and maintenance of common areas of the building; and
- (2) that the resolution concerned is legally binding on all owners (including owners not attending the owners' meeting),

Then an unanimous agreement among all owners on the repair and maintenance of the common areas of the building must be reached for the resolution to be deemed valid.

Hence, owners should seek relevant legal advice in writing from a practising lawyer in Hong Kong before planning a building rehabilitation project, with a view to verifying the relevant requirements and procedures for convening owners' meetings; as well as the rights of such meetings to resolve on the repair and maintenance of common areas as accorded by the DMC, and that the resolution thus reached is legally binding on all owners.

Granted that it is time-consuming and unrealistic to have all owners coming together to discuss and agree on the repair and maintenance of common areas, or to open a bank account for fund collection, therefore owners should consider the most effective alternative, i.e. forming an OC, to handle all tasks related to building rehabilitation within the legal framework. In so doing, matters related to the intended rehabilitation project can be tabled for discussion in a speedier and more effective way without having to convene all owners.



To learn more about the DMC—Please refer to [Section 1.2.2](#)



Simulated Scenario

“Building A” over 30 years and with only 10 nos. of units. The Buildings Department has issued an order requiring all owners of the building to appoint qualified works consultant and contractor for carry out building rehabilitation works.

In the case that building without IO and the DMC also have not provisional for the repair and maintenance of the common areas of the building. All the decision must acquire the consent from all owners. Some owners have already immigrated or rented out their flats and are unable to contact. It is difficult to hold a general meeting of owners. As a result, the building rehabilitation works were not carried out and the owners were eventually prosecuted and fined by the Buildings Department.

Point to discuss:

It is not easy to get support from all the owners in the small scale buildings like the above-mentioned. Imagine that if the buildings in large scale and how can we pass the resolutions?

Why not consider setting up an OC to deal with building rehabilitation works under the framework of the law?



How to form an IO ? – Please refer to [Section 1.2](#)

Section 1.2 **Form an OC (applicable to Buildings without OCs)**

As mentioned previously, it is advisable for owners to form an **OC** and convene owners' meetings in compliance with relevant legal requirements and procedures, so that owners may plan and resolve on relevant milestones for building rehabilitation in a more effective manner.

Before forming an **OC** and planning for building rehabilitation, owners should grasp the relevant laws and documentation listed below.

1.2.1 ***Building Management Ordinance***⁴ (**Cap.344**)

Point to note

- The *Building Management Ordinance* (Cap. 344) was enacted to provide a legal framework for the formation of Owners' Corporations (OC) to facilitate effective building management. It also sets out the powers and duties of an OC.
- Mandatory Terms in Deeds of Mutual Covenant⁵, such as financial arrangement、procurement arrangement、Resignation of manager、Termination of manager's appointment by owners' corporation、Obligations after manager's appointment ends etc. owners' corporation and manger are responsible to comply with the Ordinance, the Deed of Mutual Covenant and the Code of Practice issued by the Secretary for Home Affairs under the Ordinance.
- Subject to section 29 of BMO, the powers and duties conferred or imposed by this Ordinance on a corporation shall be exercised and performed on behalf of the corporation by the management committee and its meeting procedures so as to facilitate the day-to-day operation of the OC and compliance by owners.

⁴ *Building Management Ordinance (Cap.344)*, the Government will review the implementation of the Ordinance from time to time and make timely amendments to meet the needs of social development.

⁵ Schedule 7 of *Building Management Ordinance (Cap.344)*.

- For the organization of management committee and the procedures, in the event of any inconsistency between this Schedule and the terms of a deed of mutual covenant or any other agreement, this Schedule shall prevail⁶.

1.2.2 **Deed of Mutual Covenant (DMC)**⁷

A DMC is a private contractual agreement among all the co-owners, the manager and also the developer of a building. It defines the rights, interests and obligations of the parties concerned. In general, a DMC comes into effect on the date of execution by the developer and the purchaser of the first unit of the building and is binding on other subsequent purchasers. As with other private contracts, the terms of a DMC cannot be amended unilaterally without the consent of all parties to the contract.

A DMC is a very important document in the management of building. Not only does it specify the common parts of the building, the parts for the exclusive use of individual owners and the undivided shares of each flat, but it also sets out clearly the requirements and guidelines on various building management matters.

However, the terms of the Deed of Mutual Covenants are different. Owners should seek professional advice in advance on the terms of the DMC to ensure that the relevant terms of the Deed of Mutual Covenant are fully understood.

⁶ Paragraph 12 of Schedule 2 under *Building Management Ordinance (Cap.344)* in the event of any inconsistency between this Schedule and the terms of a deed of mutual covenant or any other agreement, this Schedule shall prevail. Owners should seek professional advice in advance if inconsistency between this Schedule and DMC on the other issues except the matters related organization of management committee and the procedures.

⁷ Refer to *A Guide on Building Management Ordinance (Cap.344)* published by Home Affairs Department.

 **Useful Tip****What is “Undivided shares” ?**

Ownership in a multi-storey building is generally expressed in terms of undivided shares. When an owner purchases a flat in a multi-storey building, he is not only entitled to the exclusive possession of his flat, but also jointly owns the common parts of the building with other owners of the same building. As the common parts are co-owned by all owners, the shares of the building are undivided. The undivided shares of each flat are set out clearly in the deed of mutual covenant (DMC) of the building. Under most circumstances, the maintenance and management fees as well as the voting right of owners at a meeting of owners are determined on the basis of the undivided shares owned by him.



A Guide on Building Management Ordinance (Cap.344) published by Home Affairs Department

 **Useful Tip**

Owners may first check the sale and purchase documents for a copy of the DMC. Alternatively, **owners** may also purchase a hard copy of the DMC at the **Land Registry** in person or through its online ordering service at <http://www.iris.gov.hk>.

1. 2. 3 **Purpose and Benefits of Forming an OC**


To Fulfil Owners’ Responsibility for Building Management and Maintenance

A private property is an important asset of its **owner**, who is indisputably responsible to the maintenance, management and rehabilitation of the building. Proper and effective building management, coupled with timely repair and maintenance, not only offers **owners** a quality, comfortable and safe living environment, it also prevents depreciation caused by poor management or disrepair. To protect their own interest, **owners** should participate actively in building management operations, including management routines and rehabilitation of the building, in particular preventive maintenance.

To Exercise Legal Authority of the OC with regard to Building Management

The most feasible way to effective and proper management of common areas of a building is to form an **OC**, which is an independent corporation formed under the *Building Management Ordinance*⁸ to manage the common parts of a building on behalf of all owners while exercising and performing the rights, authority, privileges and duties of the owners under the *Ordinance*. An **OC** also has the right to engage and supervise property management companies, security companies/security guards and cleaning service companies/cleaners. To handle building management tasks in a swift and proper manner, a large part of the operation of the **OC** is delegated to an **MC**⁹.

To Engage Owners in Building Management and Maintenance Routines

An **OC** formed under the *Building Management Ordinance* is a corporation/legal entity representing all owners, which provides an effective platform for owners to manage common parts of the building and handle building rehabilitation effectively. By stipulating integrity requirements and codes of conduct  ([Template 1](#)), coupled with fair, just and open procurement/tender solicitation and transparent meeting and voting procedures, the **OC** helps ensure the proper execution and completion of building rehabilitation.

 **To learn more about integrity management and declaration of interests– Please refer to [Appendix IV](#)**

⁸ Pursuant to Section 14(1) of the *Building Management Ordinance* (Cap. 344), at a meeting of an **OC** any resolution may be passed with respect to the control, management and administration of the common parts or the renovation, improvement or decoration of those parts and any such resolution shall be binding on the **MC** and all the owners.

⁹ Section 29, *Building Management Ordinance* (Cap. 344).



Useful Tip

Is it mandatory to form an OC for a building?

Currently there is no legal obligation for the owners of a building to form an **OC**. While tasks concerning building management and maintenance can be handled without an **OC**, it is more effective to do otherwise as the management of the building will then be subject to the *Building Management Ordinance* under an **OC**.



How to handle building maintenance without OCs? – Please refer to [Section 1.1.3](#)



Useful Tip

The Differences between Management Committee and Owners' Committee

	Management Committee (MC)	Owners' Committee
Basis of Appointment/Formation	Section 3, 3A or 4 of the <i>Building Management Ordinance</i>	Pursuant to and in accordance with the DMC (as stated in Section 34D of the <i>Building Management Ordinance</i>)
Duties	To manage common parts of the building on behalf of all owners .	To verify DMC managers' compliance with DMC terms in managing the building and to offer DMC managers advice on building management based on the relevant terms in the DMC

1. 2. 4 The methods and procedure of forming an OC





Owners may, in accordance with section 3, 3A or 4 of the BMO, convene a meeting of owners to appoint an MC and form an OC. However, they still have to refer to the DMC to ascertain the owners' votes at a meeting of owners. Unless the DMC otherwise provides, an owner shall have one vote in respect of each share he owns. A vote may be cast either personally or by proxy.

- In most circumstances, owners would appoint an MC and form an OC under section 3 of the BMO (an owner appointed by the owners of not less than 5% of the shares in aggregate). The newly-appointed MC shall within 28 days after its appointment make an application to the Land Registrar for the registration of the owners as a corporation.



Useful Tip

Procedures of forming an Owners' Corporation (under section 3 of the BMO) :

1. appointment of one owner by owners of not less than 5% of the shares in aggregate to convene a meeting of owners ;
2. The convenor should ascertain the number of shares and voting rights of each flat by making reference to the clauses in the DMC of the building ;
3. The convenor should check the land register to ascertain the name of each owner. ;
4. The convenor has to make sure that the notice of meeting of owners is delivered to all the owners, the DMC manager and the person authorized by the DMC (if any) at least 14 days before the date of the meeting and the date, time and place of the meeting as well as the agenda of meeting are clearly specified in the notice of meeting of owners  ([Sample 2](#)) ;
5. The convenor collect  ([Sample 3](#)) and to determine the validity of the instruments of proxy  ([Sample 4](#)) and consolidate the list of proxy ( ([Sample 5](#))) ;
6. The convenor holding a meeting of owners for forming of MC and appointment of members of MC ;
7. Applying to the Land Registrar for registration of owners as a corporation.



[How to form an Owners' Corporation published by Home Affairs Department](#)

- Where owners cannot appoint an MC and form an OC under section 3 of the BMO, you can seek the assistance from Home Affairs Department and consider to form an Owner's Corporation under section 3A or 4¹⁰. Should owners have any question, they may refer to the relevant provisions in the BMO or contact the District Building Management Liaison Team (DBMLT) of the relevant District Office (DO) or seek legal advice.

¹⁰ Please refer to Section 3A or 4 under *Building Management Ordinance* for the details or maybe refer to How to form an Owner's Corporation published by Home Affairs Department to understand the details.



Useful Tip

Owners with the intention to carry out building rehabilitation and form an **OC** can apply for relevant subsidy schemes offered under the Urban Renewal Authority (**URA**). For details, please refer to ‘Building Rehab Platform’ website administered by the URA ([http:// www.brplatform.org.hk](http://www.brplatform.org.hk)).

- MC was appointed under section 3, 3A or 4, the members of MC must be an owner¹¹. The MC should have Chairman, Vice-Chairman (subject to the passage of the resolution on the establishment of the office), secretary and treasurer. The numbers of the members of MC are listed as below:^{12, 13, 14} :

No. of units	No. of members
Not more than 50	Not less than 3
More than 50 but not more than 100	Not less than 7
More than 100	Not less than 9

- Day-to-day business of an OC is mostly handled by an MC. Subject to the BMO, the powers¹⁵ and duties conferred or imposed by the BMO on the OC shall be exercised and performed on behalf of the OC by the MC.

¹¹ Except the Tenants’ representative under section 15 under BMO (Cap.344).

¹² Paragraph 1 (1) of Schedule 2 under BMO (Cap.344).


¹³ Under Paragraph 2 (2) of Schedule 2 and section 15 under BMO (Cap.344), the members of an approved association may, by a resolution passed by a majority of the votes of the members voting either personally or by proxy, appoint or remove from office an occupier as the tenants’ representative. The tenants’ representative appointed under section 15(1) shall be deemed to be appointed by the owners as a member of the management committee.

¹⁴ It is recommended to follow the “A Revised Administrative Guidelines on Best Practices on Building Management” issued by the Home Affairs Department on January 1, 2019. For details, please visit the following website.
https://www.buildingmgmt.gov.hk/pdf/Admin_Guidelines_2019_Chi.pdf.

¹⁵ According to Part IV of BMO, Powers of corporation generally - Subject to this Ordinance, at a meeting of a corporation any resolution may be passed with respect to the control, management and administration of the common parts or the renovation, improvement or decoration of those parts and any such resolution shall be binding on the management committee and all the owners.

1. 2. 5 **Duties and Roles of OCs, MCs and owners**¹⁶

Every building owner is a stakeholder of building affairs and has the right to express views and voting for their decisions. Therefore, owners also takes up due responsibility at the same time. Owners not only responsible for their own property but also the common parts of the building. And ensure that the overall condition of the building is in good condition and to pay the maintenance costs to be shared in accordance with the terms of the Deed of Mutual Covenant.

 **Wanted to know more about the Duties and Roles of Owner's Corporation, MC and owners ? – Please refer to [Appendix V](#)**

1. 2. 6 **Duties, Roles and Services of ‘Manager’**

The management routines of a building, by definition involving a lot of miscellaneous tasks, is often outsourced to a ‘manager’ (i.e. property management company), who may also be responsible for organising and handling tasks arisen from building rehabilitation, which is an integral part of building management.

Duties of ‘Manager’

Generally speaking, **owners/OCs** may engage a ‘DMC manager’ or a ‘contract manager’ to perform daily building management duties. This ‘manager’ can:

- Assign his subordinates or appoint a service provider to provide building management services (common examples include cleaning and security services); or
- Assist in the selection of service providers (e.g. cleaning and security service contractors) and monitor their performance with **OC’s** authorisation.

¹⁶ To know more details about Duties and Roles of Owner’s Corporation, MC and owners, please refer to the Guide on Building Management Ordinance published by Home Affairs Department.

Useful Tip

How to monitor the performance of a ‘manager’?

The **owners/OCs** should:

- Verify the compliance of the ‘manager’ with requirements on the procurement, funding and supervision of service providers;
- Conduct sampling to identify any significant differences between the cost of goods and services procured by the ‘manager’ and market prices;
- Make regular comparisons between the ledgers and the approved budget (e.g. monthly/quarterly) and ask the ‘manager’ for an explanation over significant discrepancy spotted; and
- Lay down service appraisal criteria to assess the performance of the ‘manager’ at the end of the contract terms.



Building Management Toolkit published by the ICAC

Major Roles of ‘Manager’

- To act in the interest of the **owners/OCs**;
- To offer **owners/OCs** professional advice on building management;
- To comply with provisions of the *Building Management Ordinance/DMC* when performing building management duties, particularly the procurement, finance and arrangement of **owners/OCs’** meetings; and
- To offer **owners/OCs** advices, out of his familiarity with provisions of the *Building Management Ordinance* and the DMC, to ensure compliance with and proper fulfilment of the stipulated requirements (e.g. proper management and maintenance of the common parts and facilities of the building).

To protect the interest of the **owners/OCs**, the ‘manager’ should:

- Declare his relationship with bidders and any conflicts of interest;
- Sign the ‘Confirmation Letter to Comply with Probity and Anti-Collusion Clauses’ and ‘Declaration Form to Comply with the Ethical Commitments Requirements’; and
- Sign the ‘Non-Collusion Clauses and Non-Collusive Tendering Certificate’ prepared by the **Competition Commission**.

Services provided by ‘Manager’ Concerning Building Rehabilitation –
Please refer to [Appendix VI](#) 

- Assign his subordinates to provide additional management services relevant to building rehabilitation;
- Provide **owners/OCs** with professional advices on the recruitment and selection of works consultant, work contractors and other related service providers (e.g. legal advisor/work supervisor), and monitor the procurement and appointment procedures of the aforementioned items;
- Liaise, communicate and coordinate between **owners/OCs** and the works consultant, work contractors and other related service providers.

 **Useful Tip**

How can “managers” assist owners/OCs in monitoring service providers?

"Manager" can: :

- Monitor the performance of the service providers employed by the **owners/ OCs**, especially on the manpower and other resources which stated in contract;
- Report to the **owner/OCs** of any failure to meet the standard and violate the service commitments, and to take the corresponding actions;
- To provide the channels for **owners/ OCs** for the further enquiry and complaint on the service providers (e.g. telephone hotline);
- Report serious complaints about service providers in the meeting;
- Provide the owner/corporation with the proper procedures and systems for processing and validating works payment.



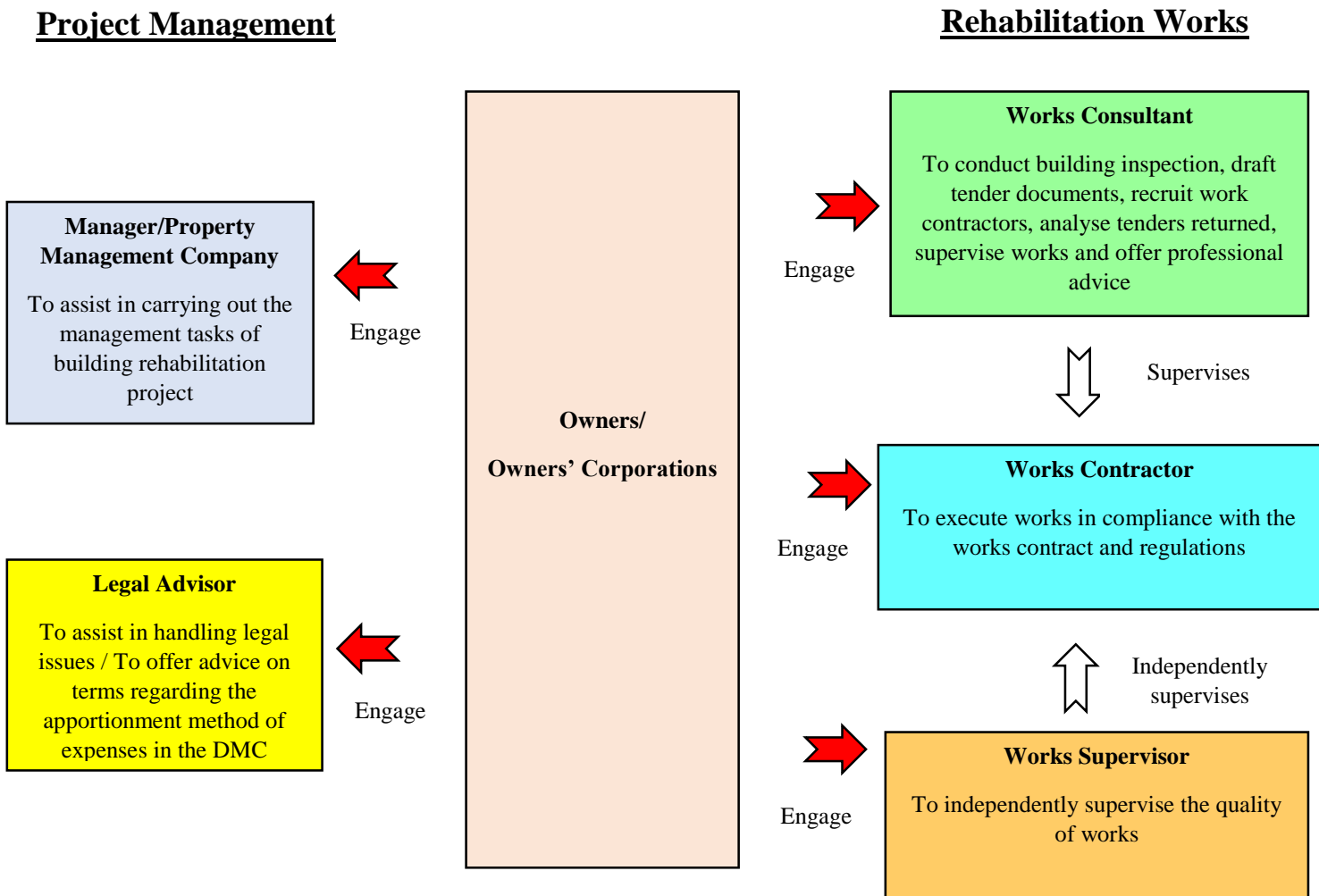
Building Management Toolkit published by ICAC

 **Useful Tip**

For buildings without **OCs**, the ‘**manager**’ may assist in handling building maintenance in accordance with relevant DMC terms. However, **owners** are advised to consult legal professionals if such terms are ambiguous.

1. 2. 7 Organisational Structure of Building Rehabilitation Project Management

The general organisational structure is as follows:



Useful Tip

To handle management and maintenance tasks or engage necessary service providers for buildings without **OCs**, all **owners**/the 'manager' may need to assume the aforesaid roles of the **OC** and, subject to provisions of the DMC, convene owners' meetings to discuss and resolve on such matters with a unanimous vote. Owners are advised to consult practising lawyers for legal advice in writing.

Section 1.3 Convene Owners' Meetings about the Rehabilitation Project

1.3.1 Procedures and Rules of different Meetings (Applicable to buildings with OCs)¹⁷

It is common to convene an MC meeting or Owners' meeting for discussion of the matters which related to building management and building rehabilitation. For example:

- Explain why we need building rehabilitation;
- Discuss and resolve building rehabilitation projects;
- Discuss and resolve applications for subsidies schemes of URA or other departments/institutions;
- Discuss and resolve the works items;
- Discuss and resolve the appointment of works consultant;
- Discuss and resolve the appointment of works contractor.

Convening an MC meeting¹⁸

(i) How often for MC meeting

- at least once in every period of 3 months.
- shall be convened any time by the MC Chairman
- shall be convened by the MC secretary, at the request of any 2 MC members
 - within 14 days of receiving such request and held within 21 days of receiving such request.

(ii) Notice of meeting

- The MC secretary, at least 7 days before the date of the MC meeting and give notice of the meeting to each MC members and (if the treasurer is not a member of the MC) the MC treasurer; and display the notice of meeting in a prominent place in the building.
- **The notice of meeting may be :**
 - Delivered personally to the addressee ; or
 - Sent by post to the addressee at his last known address ; or
 - Left at the flat of the addressee or deposited in the letter box for that flat.

¹⁷ It is recommended to follow the "A Revised Administrative Guidelines on Best Practices on Building Management" issued by the Home Affairs Department on January 1, 2019. For details, please visit the following website.
https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Chi.pdf.

¹⁸ Schedule 2 in BMO.

- The notice of meeting shall specify :
 - The date, time and place of the meeting ; and
 - The resolutions that are to be proposed at the meeting.

(iii) Quorum

- 50% of the members of the MC (rounded up to the nearest whole number) or 3 such members, whichever is the greater.

(iv) Voting at a meeting

- All matters raised in an MC meeting may be decided by a resolution passed by a majority of the votes of the MC members present at the meeting.
- If there is an equality of votes, the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.
- Subject to the BMO, the procedure at MC meeting shall be determined by the MC.

(v) Minutes of meeting

- The MC secretary shall display the certified minutes in a prominent place in the building within 28 days from the date of the MC meeting for 7 consecutive days. The MC shall keep the certified minutes for such period, being not less than 6 years, as the OC may determine.

General Meetings of the Owners' Corporation¹⁹

(i) How often for General Meetings

- the MC shall convene the first annual general meeting of the OC not later than 15 months after the date of the registration of the OC.
- thereafter, the MC shall convene an annual general meeting within 12 to 15 months after the date of the previous annual general meeting.
- The MC shall convene a general meeting of the OC at any time for such purposes as it thinks fit.
- The MC Chairman shall convene a general meeting of the OC at the request of not less than 5% of the owners for the purposes specified by such owners within 14 days of receiving such request, and hold the general meeting within 45 days of receiving such request.

¹⁹ Schedule 3 of BMO.

(ii) Notice of meeting

The MC secretary shall, at least 14 days before the date of the general meeting of the OC ,

- Give notice of the meeting to each owner and the tenants' representative (if any)
- The 14-day notification period includes the day of issue of the notice of meeting, but excludes the day of the meeting. Public holidays, Saturdays and Sundays are included.
- The notice of meeting given by the MC secretary may be :
 - Delivered personally to the addressee ; or
 - Sent by post to the addressee at his last known address ; or
 - Left at the flat of the addressee or deposited in the letter box for that flat.
- The notice of meeting shall specify :
 - The date, time and place of the meeting ; and
 - The resolutions that are to be proposed at the meeting .
- It should be noted that no resolution passed at any general meeting of the OC shall have effect unless the same was set forth in the notice of meeting or is ancillary or incidental to a resolution or other matter so set forth.

(iii) Quorum

Normally 10% of the owners.



Useful Tip

How to count the number of owners of general meeting of OC? (Schedule 11 of BMO)

Form	Illustration	To be counted as
Multiple ownership of 1 flat	1 flat with 3 co-owners	1 owner
1 owner owning a number of flats	1 owner owning 35 flats	1 owner
Person holding proxy	1 person holding a proxy from 1 owner	1 owner
	1 person holding a proxy from another owner	2 owners
	1 person holding a proxy from 100 owners	100 owners
	35 persons holding a proxies from 100 owners in aggregate	100 owners



A Guide on *Building Management Ordinance* (Cap.344) published by Home Affairs Department

(iv) Voting at the meeting

- An owner shall, unless the DMC provides otherwise, have one vote in respect of each share he owns.
- All matters arising at a meeting of the OC shall be decided by a majority of the votes of the owners voting either personally or by proxy.
- In determining whether a resolution is passed by a majority of the votes of owners, the following shall be disregarded:
 - owners who are not present at the meeting;
 - owners who are present at the meeting but do not vote;
 - blank or invalid
 - abstentions

If there is an equality of votes, the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.


Useful Tip



Present at the meeting and vote personally

Under the circumstances, the owners should attend the meeting in person and try to avoid the appointment of proxy. The owners shall understand the reasons, process, arrangement and progress of the building rehabilitation. Owners also can clarify the rehabilitation matters with the management committee, works consultant and works contractor directly in the meeting in order to make the good reference before voting.

If the owners are unable to attend the owners' meeting, they should consider appointing an appropriate or trusted representative. They may also consider confirming any voting intentions and to avoid giving proxy to someone causally.

(v) Appointment of proxy

- A general meeting of the OC, an owner may cast a vote personally or by proxy. A proxy appointed by an owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting.
- The instrument appointing a proxy shall be in the statutory form set out in Form 2 in Schedule 1A to the BMO  ([Sample 6](#)) , the proxy form may be attached to the notice of meeting of be available at the management office for use by owners.
- The instrument of proxy shall be lodged with the MC secretary at least 48 hours before the time for the holding of the meeting.

- Upon receipt of the instrument of proxy, the MC secretary shall :
 - issue a receipt  ([Sample 7](#)) to all the owners²⁰ who have lodged the instruments of proxy to acknowledge receipt of the instrument before the time for the holding of the meeting. The receipt may be left at the flat of the owner or deposited in the letter box for that flat.
 - prepare a list  ([Sample 8](#)) setting out the information of all the flats with instruments of proxy lodged. The list shall be displayed in a prominent place at the place of the meeting before the time for the holding of the meeting and shall remain so displayed until the conclusion of the meeting.
 - The MC Chairman (or if he is absent, the person who presides at the meeting shall determine the validity of the instrument of proxy received in accordance with the requirements under the BMO²¹.
 - The MC shall keep all instrument of proxy that have been lodged with the MC secretary for a period of at least 12 months after the conclusion of meeting²².



Useful Tip

What are the requirements for an instrument of proxy to be valid :

- ✓ The instrument shall be in the form set out in Form 2 in Schedule 1A ;
- ✓ It shall be signed by the owner, or if the owner is a body corporate (e.g. a company or a society etc.), shall be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate for the purposes of the general meeting: and
- ✓ It shall be lodged with the secretary of the management committee at least 48 hours before the time for the holding of the meeting.

²⁰ Paragraph 4(5)(a) of Schedule 3 in BMO. The receipt is only for confirming the proxy lodged but not the validity.

²¹ Paragraph 4(5)(b) of Schedule 3 in BMO.

²² Paragraph 4(6) of Schedule 3 in BMO.



Useful Tip

Prepare the list for proxy

MC secretary shall setting out the information of all the flats with instruments of proxy lodged. The list shall be displayed in a prominent place at the place of the meeting before the time for the holding of the meeting and shall remain so displayed until the conclusion of the meeting.

However, for the best practice , MC secretary shall consider to display in a prominent place at the place of the meeting at least 24 hours before the time for the holding of the meeting in order to avoid any argument.



Useful Tip

How to certain proxy instruments are valid ?

- MC secretary shall issue receipt for all the proxy instruments lodged with him and display the information of the flats of those owners who have made the instruments, regardless of the validity of the instruments.
- Chairman should determine the validity of the proxy instruments in strict accordance with the requirements specified in the BMO. It may not be necessary for the convenor to check up the signature of every single owner or the constitution of the body corporate. If the convenor has no reason to believe that the proxy instrument is not in order (for example, no enquiries received on its validity, no suspicious element on the proxy instrument, etc.) or has no reason to suspect that there is a motive for forgery, then it is acceptable for him, as a reasonable man, to consider that the proxy instrument is valid.
- However, if Chairman has determined that certain proxy instruments are invalid, it would be advisable for him to inform those owners concerned so that they may consider attending the meeting themselves. (recommended to re-submit the proxy if needed)
- MC secretary may also indicate on the list displayed at the place of the meeting which flat has lodged an invalid proxy instrument when preparing the list.
- Although the BMO requires the proxy to be sent to the secretary at least 48 hours before the meeting, the owner should send the proxy to the secretary earlier. The secretary should issue a receipt as soon as possible after receiving the proxy. The arrangement will allow the owners to know whether the OC has received the proxy (if the owners receive the receipt without submitting of any proxy, they will have sufficient time for further clarification).



**Frequently Asked Questions on *Building Management Ordinance (Cap. 344)*
published by Home Affairs Department**



Useful Tip

What should owners do if they suspect there are forged proxy instruments ?

Owners should inform the convenor of the meeting of owners or the MC chairman (or if he is absent, the person presiding over the meeting) if they suspect there are forged proxy instruments. Aggrieved owners may also seek a ruling from the court on the validity of the proxy instruments or the validity of the resolutions passed at the meeting.

According to section 36 of the Building Management Ordinance, the submission of a false proxy is a criminal offence.



**Frequently Asked Questions on *Building Management Ordinance (Cap. 344)*
published by Home Affairs Department**

(vi) Minutes of meeting

- Minutes shall be finished within reasonable time
- The minutes shall be prepared by the secretary and signed by the Chairman or a nominated member and shall be confirmed at a subsequent MC meeting.
- The certified minutes shall be displayed in a prominent place in the building within 28 days of the date of the general meeting for 7 consecutive days.

Emergence general meeting for filling vacancies under special circumstances

Where the number of vacancies in the offices of MC members is more than 50% of the number of MC members as decided by owners at the general meeting of the OC, the MC chairman may convene a general meeting of the OC for the purpose of filling the vacancies in the MC. It should be noted that such a general meeting of the OC may only be convened for the sole purpose of filling the vacancies in the MC. At the general meeting, resolutions that are not related to filling the vacancies cannot be passed.



Useful Tip

Best Practice on Building Management

The *Administrative Guidelines on Best Practices on Building Management* was published by the **Home Affairs Department** on 1st January 2019, featuring best practices on building management in various fields, including the formation of **OC**, procurement procedures, owners' meetings and the use of proxy instruments and financial arrangement, etc.

For more information, please visit the following website

https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Eng.pdf.

References

1. A Guide on *Building Management Ordinance* (Cap.344) published by Home Affairs Department
2. How to form an Owners' Corporation published by Home Affairs Department
3. Frequently Asked Questions on *Building Management Ordinance* (Cap. 344) published by Home Affairs Department
4. Building Maintenance Toolkit published by ICAC
5. Building Management Toolkit published by ICAC
6. Building Maintenance Guidebook published by Buildings Department
7. Smart Tender DIY toolkit published by URA

Appendix – Relevant Information

Step 1

Appendix I – Type of Statutory Orders/ notices

Appendix II – Building Rehabilitation Glossary

Appendix III – Common Building Defects, Their General Causes and Solutions

Appendix IV – Integrity Management and Guidelines for Managing Conflict of Interest

Appendix V – Duties and Rights of OCs, MCs and Owners

Appendix VI – Management Services Provided by the Manager (Building Rehabilitation)

Type of Statutory Orders/ notices

The common statutory orders/notices are listed below for reference and are not exhaustive. As the legal requirements may be modified over time, owners should consult relevant departments or professionals, or refer to the relevant department's website or related guidelines for the latest legal requirements and procedures.

Buildings Department - Buildings Ordinance (Chapter 123)

The building works in private buildings come within the purview of the Buildings Ordinance (Cap 123) (BO). It ensures that safety and health standards are maintained in the design, construction, use and maintenance of buildings, and that regular inspections of buildings and repairs to prevent the buildings from becoming unsafe are provided. The statutory orders/notices issued by the Buildings Department on building repair and maintenance are mainly divided into the following six categories :

Statutory Orders/ notices	Relevant information
<p>(a) Investigation Order under Section 26A or 28 of BO</p> <p>(Building or Drainage Works)</p>	<ul style="list-style-type: none"> • BD may issue an Investigation Order requiring the appointment of an Authorized Person (AP) to carry out an investigation on the structural conditions and defects of a building or its drainage system. • The AP employed is required to submit to BD an assessment report on the conditions of the building. The AP may include in the report the necessary repair works for the approval of the Building Authority. • If the proposed repair works are approved, BD may instruct the execution of the works through an order served on the owner.
<p>(b) Repair Order under Section 26 or 28 of BO</p> <p>(Building or Drainage Works)</p>	<ul style="list-style-type: none"> • BD may issue a Repair Order that requires the appointment of an AP to coordinate and supervise the repair of building and/or drainage system (usually required in large scale repair). • Owners should appoint Prescribed Registered Contractors to carry out the remedial works. • The owners or AP should report the completion of repair works to BD for arranging a compliance inspection and subsequent issuance of compliance letter

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(c) Investigation and Repair Order under Section 27A of BO (Dangerous Hillside)</p>	<ul style="list-style-type: none"> • BD may issue an order requiring an investigation on the safety of a slope that forms a part of a private development. Subject to the requirements specified on the order, an AP, a Registered Structural Engineer (RSE) or a Registered Geotechnical Engineer (RGE) or a combination of them should be appointed to carry out the investigation. • After the investigation, the AP/RSE/RGE should submit remedial proposals for the approval of the Building Authority. • Based on the advice from the AP/RSE/RGE, a registered specialist contractor in the site formation works category or other appropriate categories should be appointed to carry out the remedial works under the supervision of the AP/RSE/ RGE. • Upon completion of the remedial works, the AP/RSE/RGE should report the completion of remedial works to BD.

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(d) Removal Order under Section 24 of BO (Unauthorized Building Works)</p>	<ul style="list-style-type: none"> • BD may issue an order requiring the demolition, removal or alteration of Unauthorised Building Works (UBW), which have been or are being carried out without the prior approval and consent of the Building Authority or in contravention of any of the provisions of BO. • In order that the required removal works can be carried out safely, BD may require owners to employ a Prescribed Registered Contractor. • If the removal and reinstatement works are substantial or involve structural works, BD may require owners to engage an AP to prepare remedial proposals and supervise the works. Prescribed Registered Contractors should also be engaged to execute the works under the supervision of the AP • After completion of the removal and reinstatement works, owners should ensure that the AP has reported to BD for arranging a compliance inspection. BD will issue a compliance letter to the owners concerned if the removal works are carried out satisfactorily

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(e) Inspection and Repair Notice under Section 30B of BO (i.e. Mandatory Building Inspection Scheme)</p>	<ul style="list-style-type: none"> • BD may issue statutory notices to owners of a building aged 30 years or above requiring a prescribed inspection and, if necessary, prescribed repair in respect of the common parts, external walls and projections or signboards of the building to be carried out within a specified time. • Owners served with the notice shall appoint a Registered Inspector (RI) to carry out the prescribed inspection within a specified time. • The appointed RI shall carry out the prescribed inspection personally to ascertain whether the building concerned has been rendered dangerous or are liable to become dangerous. • Where the RI considers that prescribed repairs are required, the owners shall appoint a Registered Contractor to carry out the prescribed repairs under the supervision of the RI, who may be the same as or different from the RI responsible for the prescribed inspection, as the owners may decide. • Upon completion of the prescribed inspection and prescribed repairs, the RI so appointed shall submit an inspection report and a completion report respectively, together with a certificate in the specified form, to BD for record and audit check.

Buildings Department - Buildings Ordinance (Chapter 123) (Cont'd)

Statutory Orders/ notices	Relevant information
<p>(f) Inspection and Repair Notice under Section 30C of BO (i.e. Mandatory Window Inspection Scheme)</p>	<ul style="list-style-type: none"> • BD may issue a notice to any owner of a building aged 10 years or above requiring a prescribed inspection and, if necessary, prescribed repair in respect of the windows in the building to be carried out within a specified time. • Owners served with the notice shall appoint a Qualified Person (QP) to carry out the prescribed inspection required within a specified time. • The appointed QP shall carry out the prescribed inspection personally to ascertain whether the windows have been rendered dangerous or are liable to become dangerous. • Where the QP considers that prescribed repairs are required, the owners shall appoint a Prescribed Registered Contractor to carry out the prescribed repairs under the supervision of a QP, who may be the same as or different from the QP responsible for the prescribed inspection, as the owners may decide. If the QP appointed for carrying out the inspection is a Prescribed Registered Contractor, the QP may also act as the contractor to carry out the prescribed repairs. • Upon completion of the prescribed inspection and prescribed repairs, the QP so appointed shall submit an inspection report and a completion report respectively, together with a certificate in the specified form, to BD for record and audit check.

Fire Safety Department 、 Buildings Department -Fire Safety (Buildings) Ordinance (Cap 572)

For better protection to the users, owners/occupiers of commercial buildings/ premises as well as composite and domestic buildings are required, under the Fire Safety (Commercial Premises) Ordinance (FS(CP)O) and Fire Safety (Buildings) Ordinance (FS(B)O) respectively, to improve the fire services installation and equipment as well as fire safety constructions, such as fire resistant doors, in their buildings with reference to the stipulated standards.

Enforcement Authorities

Fire Safety Department - fire services installation and equipment of buildings

Buildings Department - fire safety constructions and fire safety measures

Upon inspection of the premises or buildings, the Director of Fire Services and the Director of Buildings will issue fire safety instructions to the owners/occupiers of the building as necessary to specify the necessary improvement works, including:

Statutory Orders/ notices	Relevant information
Fire Safety Directions	<p>(a) Improvement works</p> <ul style="list-style-type: none"> ● Fire Service Installations & Equipment under the jurisdiction of the Director of Fire Services <ul style="list-style-type: none"> – Automatic sprinkler system – Fire hydrant and hose reel system – Manual fire alarm – Emergency lighting – Automatic cut-off device for mechanical ventilation system – Portable fire extinguisher ● Fire Safety Construction Requirements under the jurisdiction of the Director of Buildings <ul style="list-style-type: none"> – Provision of adequate fire escape routes – Provision of adequate protection for fire escape routes and the integrity of structures against fire, and for inhibition of spreading of fire – Provision of adequate means of access for fire fighting and rescue

Fire Safety (Buildings) Ordinance (Cap 572) (Cont'd)

Statutory Orders/ notices	Relevant information
Fire Safety Directions	<p>(b) How to comply</p> <p>Fire Service Installation and Equipment under the Jurisdiction of Director of Fire Services</p> <ul style="list-style-type: none">• OCs/owners should follow the directives in the statutory directions and engage a works consultant or an AP (if considered necessary) for the follow up procedures. The explanatory notes attached to the directions provide useful advice on compliance.• Registered Fire Service Installation (FSI) Contractors should be appointed to carry out the improvement works relating to fire service installations.• If the work involves a change of the FSI layout or location of the fixed equipment, the FSI Contractor should submit FSI drawings to the Director of Fire Services for approval.• Upon completion of the improvement works, the FSI Contractor should issue a Certificate of Fire Service Installations and Equipment (FS 251) to the OCs/ owners with a copy to the Director of Fire Services for arrangement of a compliance inspection.• OCs/owners should ensure compliance with the expiry date specified in the directions. <p>Remarks* :</p> <p>Registered FSI Contractors are divided into 3 classes for different types of installation work. A list of Registered FSI Contractors is available for reference at the Fire Safety Command Headquarters, Licensing and Certification Command Headquarters, fire stations and fire protection regional offices. The list is also available at the FSD website http://www.hkfsd.gov.hk/chi/cert.html)</p>

Fire Safety (Buildings) Ordinance (Cap 572) (Cont'd)

Statutory Orders/ notices

Relevant information

Fire Safety Directions

(b) How to comply (Cont'd)

Fire Safety Construction Requirements under the Jurisdiction of Director of Buildings

- OCs/owners should follow the directives in the statutory directions and appoint an AP as the project coordinator for the follow up procedures. The explanatory notes attached to the directions provide useful advice on compliance.
- If the building works for compliance affect the structure of the building (such as addition of sprinkler water tanks / pump houses or alteration of staircases), an AP/RSE must be engaged to submit building plans for approval and supervise the works to be carried out by a Prescribed Registered Contractor. Prior consent from the Building Authority must be obtained before the commencement of works.
- OCs/owners should observe the deadline for compliance as specified in the directions.
- For improvement items that require provision of certified fire resistant materials such as doors, staircase windows, and enclosure of services in staircase, test reports/certificates issued by accredited laboratories (under the Hong Kong Laboratory Accreditation Scheme) and suppliers' certificates should be produced. The AP acting in the interest of the OCs/owners/occupiers should ensure that the material installed and installation method match the specification as stated in the reports/certificates.
- Should OCs/owners of target buildings or premises under the FS(CP) O and FS(B)O plan to embark on building maintenance works and wish to carry out the improvement works in one go before receipt of the directions, it is advisable for them to approach FSD and BD.

Remarks* :

The Hong Kong Laboratory Accreditation Scheme (HOKLAS) is an accreditation scheme administered by the Hong Kong Accreditation Service (HKAS). The plan is a voluntary participation, any Hong Kong laboratory, proficiency testing provider and reference material that is subject to objective testing and calibration within the scope of the program, providing proficiency testing and production of reference material work, and achieving the competency criteria of the laboratory accredited program for producers to participate.

Water Supplies Department-Section 16 of Waterworks Ordinance (Cap 102)

Statutory Orders/ notices	Relevant information
Notices	<p>Notices may be served to registered consumers of inside services or fire services or to agents of communal services under Section 16 of Waterworks Ordinance (Cap 102) in the following situations:</p> <ul style="list-style-type: none"> • unauthorized alteration of waterworks; • waste or pollution of a supply or there being such a risk; or • non-compliance of inside services or fire services under the provisions of the Waterworks Ordinance.

Environmental Protection Department (EPD)-

Section 3 of Water Pollution Control (Sewerage) Regulation (Cap 358AL)

Section 10 of Air Pollution Control Ordinance (Cap 311)

Section 13 of the Noise Control Ordinance (Cap 400)

Statutory Orders/ notices	Relevant information
Notices	<ul style="list-style-type: none"> (a) under Section 3 of Water Pollution Control (Sewerage) Regulation (Cap 358AL) to enable connection to public sewage system; (b) under Section 10 of Air Pollution Control Ordinance (Cap 311) in respect of emission of air pollutants which may cause deposit of dust/grit or objectionable odour or have adverse health effect, etc.; or (c) under Section 13 of the Noise Control Ordinance (Cap 400) requiring the owner, tenant, occupier or person in charge of the common facilities or commercial/industrial flats of a building to bring his noise emissions into a state of compliance by certain date.

Electrical and Mechanical Services Department (EMSD)

Electricity Ordinance (Cap 406)

Gas Safety Ordinance (Cap 51)

Lifts and Escalators Ordinance (Cap 618)

Statutory Orders/ notices	Relevant information
Notices	<p>(a) Electrical installation Notice may be served under the Electricity Ordinance (Cap 406) for lack of repair, maintenance and test and to request an owner to rectify any problem associated with an electrical installation in a building so as to ensure electrical safety.</p> <p>(b) Gas installation EMSD may serve an improvement notice under the Gas Safety Ordinance (Cap 51) to remedy any contravention of the Ordinance so as to ensure gas safety. The contravention may be due to lack of repair, maintenance or testing of piped or cylinder gas installations.</p> <p>(c) Lift and escalators installations Notice may be served under the Lifts and Escalators Ordinance (Cap 618) for the lift and escalator installations of building not complying with the Regulations. The objective is to ensure the lifts and escalators meet safety standards.</p>

Food & Environmental Hygiene Department (FEHD) - Public Health and Municipal Services Ordinance (Cap 132)

Statutory Orders/ notices	Relevant information
Notice	Notice may be served under the Public Health and Municipal Services Ordinance (Cap 132) for the abatement of sanitary nuisance arising from water seepage in private premises.

Term	General Definition
Rehabilitation	When an aged building lacks proper maintenance or is in serious disrepair, comprehensive rehabilitation works are necessary to improve its conditions. Solutions such as repair, replacement, restoration to the original design, improvement and upgrade, coupled with reconstructing or reconfiguration measures, can strengthen the structure of the building and in return, minimise the risk of being declared unsafe.
Maintenance	Regular inspections, cleaning, oiling (mechanical parts), adjustments and tests, such as repair of spalled concrete, oiling and testing of lifts, etc., are carried out on various elements of the building and its facilities to minimise deterioration and facilitate early detection of defects.
Repair	<p>Repair is a passive remedy to identified defects. It is often called in as a necessary measure.</p> <ul style="list-style-type: none"> • Preventive Maintenance Properly planned regular inspection and timely repair works in accordance with the design and life expectancy of the building and its elements can effectively perpetuate their sound condition and proper functioning, thereby minimising the inconvenient needs for emergency repair and lowering the cost of works. • Emergency Repair Defects that put residents and the public at risk or affect the daily operation of the whole building require emergency repair. These include loosened external finishes, cracks in water pipes, malfunctioned power supply system, defective fire safety provisions/fire service installations and facilities and lift elements.
Replacement	When a building element or a component of a system is broken to the point a repair is not cost-effective, or when it expires, a replacement is necessary. Such elements or components may include bearings or lift ropes, etc.
Improvement and Upgrade	This includes repainting, enhancement and renovation, etc., with a view to improving or enhancing the effectiveness or specification of certain parts of the building, or to complying with new regulations, such as fire safety or lift modernisation works.
Reconstruction or Reconfiguration	Reconstruction or reconfiguration goes beyond mere facelift, it also improves the safety and hygiene of a building on a par with prevailing standards. The aim is to refit old buildings with modern facilities to enhance the quality of living.

Common Building Defects, Their General Causes and Solutions

Building Defect	General Causes	Solutions
Spalling of structure/concrete	<ul style="list-style-type: none"> • Persistent seepage of water that eats into the reinforcing bars • Rust in reinforcing bars caused by seepage of flushing water in the concrete • Structural overload • Excessive movement of building structures or foundation settlement • Partial structural weaknesses caused by deterioration of materials • Accidental damages • Poor design/construction 	<ul style="list-style-type: none"> • To chisel away defective or loosened concrete until the reinforced substrate underneath is exposed; • To remove rust from reinforcing bars and patch the hollowed areas with appropriate type of mortar to protect the bars from corrosive oxidation; • If the reinforcing bars are greatly reduced in diameter after the rust is removed, supplementary or replacement bars must be applied before the hollowed area is patched with mortar; • In the case where the spread of defective concrete runs deep into the substrate, partial or complete demolition and reconstruction of the affected parts are required. Sufficient temporary propping should be in place to prevent collapse of structures under construction. Owners of the building should commission a building professional, e.g. a Registered Structural Engineer, to handle the entire process from design to selection of materials, and from detailed planning to site supervision.
Defective tiles or finishes on external walls	<ul style="list-style-type: none"> • Ageing of tiles/finishes on external walls • Structural movements; • Movements caused by thermal expansion and contraction; • Defect in or absence of expansion joints; • Impact from falling objects; • Water seepage into gaps between rendering of external walls/tiles and building structures 	<ul style="list-style-type: none"> • To remove and replace all loosened parts; • To ensure proper adhesion of different materials to each other when patching, including the adhesion of newly added mortar to existing wall surfaces, with the application of bonding agents for tiles where appropriate; • To apply adhesives on tiles where appropriate during adhesion of new finishes such as tiles or mosaics to mortar; • There are many ways to repair cracks on external walls, for example: <ol style="list-style-type: none"> i. To perfuse the cracks with specialised chemical agent; ii. To chisel away the cracked parts and ensure proper and direct adhesion of newly added materials to existing wall surfaces, before patching the cracks with wet or ready-mixed dry mortar.

Common Building Defects, Their General Causes and Solutions (cont' d)

Building Defect	General Causes	Solutions
Water seepage	<ul style="list-style-type: none"> • Cracks on external walls • Honeycombing of concrete • Defect in waterproof sealants of windows • Defect in rooftop membrane • Defect in external water pipes and drainage pipes 	<ul style="list-style-type: none"> • Water seepage from rooftop: Replace all ageing or damaged membranes; • Water seepage on external walls: Remove dusts and other impurities from leak spots such as holes, honeycombed concrete and cracks, then apply appropriate waterproof patches.
Defective drainage system	<ul style="list-style-type: none"> • Blockage resulted from misalignment • Sharp bends where rubbish or sediment accumulate • Shortage or ageing of pipe mounting brackets • Hammering sound or burst that occurs when the water pipes are under pressure • Blockage of connecting hoppers in funnels by overgrowth or rubbish • Illegal addition of structures that overload the drainage system 	To engage building professionals to assess the need for a replacement of defective sections or all drainage pipes.

Common Building Defects, Their General Causes and Solutions (Cont'd)

Building Defect	General Causes	Solutions
Defective fresh water pipes	<ul style="list-style-type: none"> • Blockage or leakage in components of the water service such as pipes and valves • Corroded pipes or unclean storage tanks • Pump malfunction • Breakage of supply pipelines • Defective water tanks, pipe joints or valves • Missing water tank covers • Defective water tank covers • Water leakage in the internal plumbing after water meters, and fluctuation in water pressure caused by defective pumps 	<p>To engage licensed plumbers to carry out relevant plumbing works (replacement of galvanised iron pipes for fresh water supply²³ should be covered in the scope of rehabilitation works).</p> <p>For division of responsibilities for the maintenance of fresh water pipes, please visit:</p> <p>‘Building Rehab Platform’ website (https://brplatform.org.hk), or</p> <p>Water Supplies Department website (https://www.wsd.gov.hk/en/home/index.html)</p>
Defective gas pipes	<ul style="list-style-type: none"> • Corrosion caused by strong acid or other corrosive substances • Leakage of drainage pipes atop or nearby • Improper renovation works • Persistent water seepage in floor/ceiling • Improper removal of gas facilities • Misuse of gas pipes as supportive structure for scaffolding 	<ul style="list-style-type: none"> • To notify the gas supply company for on-site inspection; • To repair any nearby drainage pipes in disrepair; • To engage registered gas contractors to carry out works regarding the installation or removal of gas facilities.
Defective electrical installations	<ul style="list-style-type: none"> • Failure of fuses or circuit breakers • Overload resulted from earth leakage • Uneven load distribution • Insufficient earth bonding 	<p>To engage registered electrical contractors/engineers to carry out electrical works. Upon completion (including additional installation, alteration and repair), the registered electrical contractors/engineers must inspect and test the electrical installations concerned, followed by the issuance of a signed Work Completion Certificate (Form WR1) to owners of fixed electrical installations.</p>
Defective lift installations	<ul style="list-style-type: none"> • Aged components • Mechanical failures • Unattended misalignment between landing position of the lifts and floor height • Operation obstructed by wastes • Insufficient maintenance 	<p>Pursuant to the relevant provisions of the <i>Lifts and Escalators Ordinance</i> (Cap. 618), owners of lift installations shall engage registered lift contractors to perform the following tasks:</p> <ul style="list-style-type: none"> • To inspect, clean, oil and adjust lifts at least once a month; • To test and inspect of relevant safety equipment once a year; • To examine lifts with rated load, overload alert devices and emergency driving machine brake once every 5 years.

²³ The Water Supplies Department has banned the use of galvanised iron pipes for fresh water supply since 23rd December 1995.

Common Building Defects, Their General Causes and Solutions (cont' d)

Building Defect	General Causes	Solutions
<p>Unauthorised building works (UBW)</p>	<p>Unauthorised structural additions or changes to the original building structure by owners</p>	<p>Pursuant to the <i>Buildings Ordinance</i> (Cap. 123)</p> <ul style="list-style-type: none"> • Owners are liable for the duly rectification of any divergence from any plan approved by removing UBW in their properties and restoring their original states in accordance with the approved plans; • The OC of a building may, in compliance with the DMC of the building, institute a civil action against individual owners, demanding termination of construction or removal of UBW in common areas of the building; • The public may raise complaints against individual circumstances to the BD, who will take priority action against UBW under construction.
<p>Defective fire safety provisions/fire service installations and facilities</p>	<ul style="list-style-type: none"> • Blockage or leakage in water pipes or valves • Pump failure • Water seepage in the fire service • Damaged, rusted or failed pipes, joints or valves • Defect in fire alarm wires or short circuit • Insufficient maintenance, repair or management 	<p>Pursuant to Section 8 of the <i>Fire Service (Installations and Equipment) Regulations</i> (Cap. 95B)</p> <ul style="list-style-type: none"> • Owners shall engage registered fire service installation contractors to inspect fire service installations or facilities at least once every 12 months; and • To repair failed or defective fire service installations.
<p>Defective windows</p>	<ul style="list-style-type: none"> • Rusted frames or screws • Peeling or aged putty or sealant • Tight hinges • Loosened rivets, screws or anchors 	<ul style="list-style-type: none"> • To repaint the undercoat and topcoat of window frames on a regular basis; • To maintain the glazing putty properly; • To lubricate the hinges on a regular basis; • To replace defective hinges/loosened components.

Common Building Defects, Their General Causes and Solutions (cont' d)

Building Defect	General Causes	Solutions
Additional objects on external walls	<ul style="list-style-type: none"> • Lack of maintenance • Natural erosion • Weaknesses caused by unauthorised addition works • Water seepage caused by insufficient density or cracks and tears on waterproof topcoat, causing the reinforcing bars to corrode and its capacity weakened 	<ul style="list-style-type: none"> • Owners should allocate sufficient resources for the regular inspection and repair of such objects to prevent them from falling off.
Slopes and retaining walls	<ul style="list-style-type: none"> • Blockage of drainage channels caused by heavy rain (where miscellaneous articles or rubbish accumulate) • Defective aboveground drainage channels (cracks on slope surfaces and drainage channels caused by overgrowth) • Degradation of protective surfaces (spalling or degradation of adhesive mortar that holds together the stone walls) • Rapid increase in underground water level • Blockage of weep holes • Extensive water seepage from the surface or weep holes of the slopes or retaining walls 	<ul style="list-style-type: none"> • Owners shall be responsible for the repair and maintenance of slopes and retaining walls within their private land/adjoining or nearby government land prescribed in provisions of the relevant land lease or agreement. • To carry out regular inspections of slopes to protect the slope surface and drainage channels from defects by removing loosened debris and overgrowth. • Owners should cause professionals (e.g. geotechnical engineers) to frequently inspect the retaining walls to ensure their proper structure and drainage function. • Inspection of retaining walls with monitoring installations should be carried out by qualified persons on a regular basis. • To carry out regular maintenance and enhancement to ensure stability and proper condition of slopes and retaining walls, especially before rainy season.

Prevention of Bribery Ordinance (Cap 201)

- The Prevention of Bribery Ordinance deals not only with bribery of government/ public officials, but also with private sector corruption.
- Section 9 of the Prevention of Bribery Ordinance prohibits corrupt acts of agents when conducting the business of their principals. The following provides a gist of the relevant provisions in the Prevention of Bribery Ordinance. Property owners/ OCs should refer to the original text of the Prevention of Bribery Ordinance for the full version if necessary.

Principal

The OC, as the legal entity representing all owners, is generally the principal in relation to the management and maintenance of the common parts of the buildings. A PMC, works consultant or works contractor is also the principal in respect of its staff and agents.

Agent

Members of the MC, employees of the OCs, property owners or any person including volunteers acting on behalf of the OCs to carry out their business, are agents of the OC. An employee of a PMC, works consultant or works contractor is also an agent of the PMC, consultant or contractor.

Advantage

- any gift, loan, fee, reward or commission consisting of money or in kind;
- any office, employment or contract;
- any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- 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;
- the exercise or forbearance from the exercise of any right or any power or duty; and
- any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of the above mentioned items.

Entertainment

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.

Managing Conflict of Interest

What is Conflict of Interest?

- A conflict of interest situation arises when the financial or personal interests of an MC member or staff who acts on behalf of the OC in carrying out any business relating to the building competes with or is in conflict, whether actual or perceived, with the interest of the OC. The same applies to works consultant and works contractor.
- Conflict of interest, if not handled properly, may be perceived as corruption or abuse of power, even though the related parties have not received any actual advantages.

How to Manage Conflict of Interest?

A Mechanism for MC Members and Staff:

- ✓ MC members or staff should be required to avoid and, if unavoidable, declare to the Secretary of the OC any actual or perceived conflict of interest.
- ✓ The Secretary should report the case to the Chairman of the OC for a decision on the action to take, such as electing another member as a replacement.
- ✓ Any report of conflict of interest and actions taken should be properly recorded
- ✓ In case the building maintenance project is carried out by way of tender, all parties involved in the tender exercises (e.g. members of the MC, the Manager and his staff) should each declare in writing whether he has any conflict of interest in the tender under consideration; and undertake to declare so as soon as he becomes aware of such a conflict.



[Sample 9](#) — Sample form for declaration of conflict of interest


Probity Requirements for MC Members and OC Staff:

- In carrying out any business relating to the building on behalf of the OC, including building maintenance projects, the MC members and staff should :
 - ✓ act in the interest of the OC ;
 - ✓ in no way solicit or accept any advantage on account of his handling the OC's business ;
 - ✓ avoid as far as possible, and declare if unavoidable, any conflict of interest; and
 - × abstain from the discussion of matters and decision-making process where a conflict of interest exists, as considered necessary and directed by the MC.
- The OC should lay down the probity requirements for its MC members and staff in a code of conduct



[Sample 1](#) — Sample Code of Conduct for Owners' Corporations

Duties and Rights of OCs, MCs and Owners

Role	Authority/Right	Duty/Responsibility
OC	<ul style="list-style-type: none"> ▪ To decide whether to appoint salaried staff members, property management company, professionals/lawyers or other qualified architecture professionals (e.g. work consultant, work contractor and work supervisor etc.) to assist in the execution of its duties or exercise of its power; ▪ To make decisions on issues related to common parts of the building, such as purchase of facilities and implementation of renovation, improvement or decorative works; ▪ To pass, at owners’ meetings, resolutions on <ul style="list-style-type: none"> - the control, management and administrative issues regarding the common parts of the building; - renovation, improvement or decorative works for such common parts; • To formulate integrity requirements and code of conduct, with which members of the MC shall comply when performing duties of the OC. <p style="margin-top: 20px;"> Template 1 – Code of Conduct for OCs</p>	<ul style="list-style-type: none"> • To exercise and perform all rights, authority, privileges and duties of an owner in relation to common parts of the building; • To be legally obliged to properly manage and maintain the common parts of the building, and to take all reasonable and necessary measures to fulfil the responsibilities for the control, management and administration of the building as stipulated by the DMC; ▪ To purchase third-party risks insurance covering the common parts of the building and properties of the OC; ▪ To comply with the <i>Code of Practice on Building Management and Maintenance</i> issued by the Secretary for Home Affairs when performing its duties and exercising its powers.

Rights and Responsibilities of OCs, MCs and Owners (Cont'd)

Role	Power/Right	Duty/Responsibility
MC	<ul style="list-style-type: none"> ▪ To handle routine tasks of the OC; ▪ To exercise the powers and perform the duties delegated to the OC by the <i>Ordinance</i>; ▪ To demand works consultant or contractor to fulfil the contract terms. 	<ul style="list-style-type: none"> ▪ To convene annual general meetings of the OC on a regular basis; ▪ To convene regular MC meetings; ▪ To draft regular financial statements for the OC; ▪ To prepare budgets for the OC on a regular basis, to determine the contributable amount of owners to the general or contingency fund and to verify items concerning payments to the fund; ▪ To provide the following items for inspection by persons fulfilling the requirements of the <i>Ordinance</i>: <ul style="list-style-type: none"> - Ledgers, statement records and receipts, invoices, certificates, sales slips and other documents to which such records refer; - The insurance policies entered between the OC and the insurance company and receipts for the relevant premium payment; ▪ To place the following documents in its custody: <ul style="list-style-type: none"> - Ledgers, statement and other records, together with receipts, invoices, certificates, sales slips and other documents to which such records refer; - Tender documents and contracts, account entries, invoices and other documents related to the procurement of supplies, goods or services; - Verified minutes of MC meetings and general meetings of the OC; - Instruments of proxy for general meetings of the OC; ▪ To pay works consultant and contractors in compliance with terms of the relevant contracts; ▪ To monitor the service quality and performance of works consultant in compliance with terms of the relevant contracts; ▪ To arrange meetings with works consultant or works contractors in a proper manner.

Rights and Responsibilities of OCs, MCs and Owners (Cont'd)

Role	Power/Right	Duty/Responsibility
<p>Owner</p>	<ul style="list-style-type: none"> ▪ To monitor operation of the MC; ▪ To express opinions on building rehabilitation in accordance with meeting procedures; ▪ To consult the MC, works consultant and contractors about building rehabilitation to; ▪ To exercise voting rights with regard to building management and maintenance, e.g. the implementation of building rehabilitation, and the selection of works consultant, work items and work contractors, etc. 	<ul style="list-style-type: none"> ▪ To comply with items resolved at general meetings of the OC or by the MC; ▪ To pay their contributions payable for the repair works; ▪ To keep abreast of the operations of the OC and building management, such as attending general meetings of the OC to exercise their own voting rights on relevant items.

Management Services Provided by the ‘Manager’ (Building Rehabilitation)

The management routines of a building, by definition involving a lot of miscellaneous tasks such as matters concerning the procurement, finance, meeting arrangement and related documentation, is often outsourced to a ‘manager’, whose workload increases inevitably when the need for building rehabilitation arises. In this case, additional manpower and resources may be needed to handle the relevant procedures. Any extra service fees thus incurred are generally charged to the **owners/OCs** in accordance with the contract terms or agreement made between the **owners/OCs** and the manager.

Management

- To assist **owners/OCs** in handling and following up on disputes and complaints concerning works consultant/contractor;
- To follow up, whenever necessary, on tasks arisen from potential faults of completed works after the disengagement of works consultant/contractor;
- To assist **owners/OCs** in handling the communication, paperwork and administration related to building rehabilitation, such as attending relevant additional meetings and handling relevant paperwork (e.g. arranging meetings with works consultant and drafting relevant minutes);
- To assist **owners/OCs** in communicating with and monitoring works consultant and contractor;
- To assist **owners/OCs** in making applications for relevant building rehabilitation subsidy/support schemes to government departments/other organisations;
- To assist in arranging temporary closure and suspension of public facilities (such as cordoned off areas on the ground during works at height);
- To discuss the use of temporary facilities with works consultant and contractor and to draft relevant notices.

Finance

- To assist in calculating the apportion of rehabilitation work expenses submitted by the works consultant/contractor or to assist the **owners/OCs** in reviewing such expenses in compliance with the provisions of the DMC;
- To print and distribute fund collection notices of work expenses, payment reminders and receipts;
- To collect funds, to record and recover arrears, and to handle relevant legal actions.

Security

- To assist in handling issues concerning the erection of scaffolding and complaints lodged by the **owners/OCs**, for example:
 - The setting up of cordoned off areas during works to protect residents;
 - Security reinforcement including enhanced security patrols, registration and random inspection of worker permits, enhanced alertness of the security guards, security arrangements for shady areas and material storages, etc.;
 - Impact on or damage of air conditioners, windows or other private properties of individual **owners/residents** during the erection of scaffolding by the work contractor;
 - Erection of scaffolding by the work contractor without notice/in a forceful manner;
 - Safety issues during typhoon;
 - Anti-burglary issues;
- To handle damages caused to building facilities during transport of construction materials or tools by the work contractor;
- To alleviate blockage of common areas or fire escape routes caused by misplacement of construction materials or wastes by the work contractor;
- To assist in handling conflicts/disputes between the work contractor and the **owners/residents**.

Cleaning

- To arrange and coordinate additional cleaning service during chiselling and construction works to remove dust and dirt in common areas, corridors and individual flats caused by insufficient coverage;
- To handle the increased amount of rubbish, including construction wastes improperly handled;
- To remove stagnant water and insect problem caused by improper handling of construction materials during the works/construction wastes;
- To keep routes clear and set up roadways for emergency vehicles.

In view of the ambiguity in rights and responsibilities among the ‘managers’, works consultant and work contractors that may arise during the works, such as paperwork, communication with relevant government departments and handling of construction wastes during the works, it is advisable for **Owners/OCs** to define the duties of each party clearly and understand thoroughly the terms of contracts signed by each party to avoid unnecessary disputes.



Sample/ Form/ Template

Step 1

Sample 1 – Sample Code of Conduct for Owners’ Corporations

Sample 2 – Notice of an Owners’ Meeting

Sample 3 – OC Formation –Instrument of Proxy for Meetings of Owners

Sample 4 – OC Formation - Acknowledgement Receipt of the Instrument of Proxy

Sample 5 – OC Formation - List of Flats with Instruments of Proxy lodged

Sample 6 – General Meeting of OC - Instrument of Proxy for Meetings of Corporation

Sample 7 – General Meeting of OC - Acknowledgement Receipt of the Instrument of Proxy

Sample 8 – General Meeting of OC - List of Flats with Instruments of Proxy lodged

Sample 9 – Sample Form for Declaration of Conflict of Interest

Remarks:

The samples, documents, forms and contract terms of the building maintenance and repair works in this guide are for reference only. If the building owner has appointed a works consultant for the project, the works consultant should be required to choose the suitable terms for projects under different circumstances. If the project does not appoint any works consultant, the building owner should consult professional advice. And, if necessary, you should seek legal advice. **Hong Kong Building Rehabilitation Facilitation Services Limited** and its partners will not be liable, including legal or other liability, for any loss or damage caused by any person making or waiving any of the contents of this Guide.

Sample Code of Conduct for Owners' Corporations

The Management Committee (MC), as appointed by the Owners' Corporation (OC), is committed to managing the building with integrity, honesty and fairness. The OC has thus passed a resolution that all its agents including members of the MC and the sub-committees, employees and contractors should observe this Code when conducting business for the OC.

Prevention of Bribery Ordinance

Any agent of the OC soliciting or accepting an advantage in connection with his work for the OC without the permission of the OC will commit an offence under Section 9(1) and the offer or of the advantage will commit an offence under Section 9(2) of the Prevention of Bribery Ordinance (Cap 201). The term "advantage", as defined in the Ordinance includes money, gift, loan, fee, reward, employment, contract, service and favour but does not include entertainment which is the provision of food or drink for consumption on the occasion.

Any agent of the OC using any false documents, records, accounts or receipts with the intent to deceive the OC will commit an offence under Section 9(3) of the Ordinance.

Acceptance of Advantage

The OC has passed a resolution that agents of the OC are not allowed to solicit or accept any advantage when conducting business for the OC, unless with the prior permission of the OC in writing. Examples include MC members not to accept gifts from contractors and caretakers not to solicit tips from owners and tenants.

Entertainment

Although entertainment is not an advantage and is an acceptable form of social and business activity, agents of the OC (e.g. MC members, works consultant) should avoid accepting lavish or frequent entertainment from business associates of the OC (e.g. contractors or sub-contractors) so as not to put themselves in a position of obligation or affect their judgement. Excessive gambling with and loans from business associates of the OC should also be avoided.

Conflict of Interest

A conflict of interest arises when the private interest of an agent of the OC competes or conflicts with the interest of the OC. Private interest includes both the financial and personal interest of the agent and those of his connections. Connections include his family members, relatives and close personal friends.

Agents of the OC should avoid any situation which may lead to an actual or perceived conflict of interest and make a declaration to the MC or the OC when such a situation arises. Examples include an MC member holding the shares of a contractor bidding for the OC's contract, and a caretaker being a relative of his supervisor. Failing to declare or avoid conflict of interest may give rise to criticism of favouritism, abuse of authority or even allegation of corruption.

Handling Confidential Information and Accounts

Agents of the OC should not disclose any confidential information (e.g. tender price, personal data etc.) of the OC without authorization and should take the necessary measures to protect such information from being abused or misused. Agents should ensure the documents, accounts and receipts submitted to the OC are true and accurate.

Compliance with Code of Conduct

It is the responsibility of the agents of the OC to understand and comply with this Code. The OC will ensure agents fully understand and observe the requirements and standards laid down in the Code.

Agents of the OC who is in breach of the code of conduct may be dismissed or removed from office by resolution of the OC. In case of suspected corruption or other criminal offences, a report will be made to the ICAC or the appropriate authorities.

Any enquiries or complaints on possible breaches of this Code should be directed to the chairman or the MC of the OC.

Sources : Building Maintenance Toolkit published by ICAC

Notice of an Owners' Meeting (Sample)

_____ (Date)

To : The owners

Notice of an Owners' Meeting

of _____ (name of building) at
[_____] (address of building)

to be convened in accordance with section 3 of the Building Management Ordinance

Notice is hereby given pursuant to section 3 of the Building Management Ordinance (BMO) that a meeting of owners of the above-mentioned building will be held. Details are as follows –

Date :

Time :

Venue :

The meeting is convened for the purpose of forming an owners' corporation and appointing a management committee consisting of a chairman, a vice-chairman (subject to the passage of a resolution by owners on the establishment of the office), a secretary, a treasurer and other members in compliance with section 3 of the BMO. It will also discuss and pass the resolutions for the matters related to the incorporation of owners. The agenda of the meeting is as follows –

- (1) to resolve on the formation of an owners' corporation and the appointment of a management committee
- (2) to resolve on the number of members of the management committee
- (3) to resolve on the appointment of members of the management committee
- (4) to resolve on the establishment of the office of vice-chairman of the management committee
- (5) to resolve on the appointment of a chairman of the management committee
- (6) to resolve on the appointment of a vice-chairman of the management committee (subject to the passage of a resolution on the establishment of the office)
- (7) to resolve on the appointment of a secretary of the management committee
- (8) to resolve on the appointment of a treasurer of the management committee
- (9) to resolve on the registered address of the owners' corporation
- (10) any other business

You are cordially invited to attend the meeting. If you are unable to attend the meeting, you may appoint a proxy to attend and vote on your behalf. Appointment of proxy has to be made by using the enclosed instrument of proxy (i.e. proxy form), which is in the format specified by the BMO. The instrument of proxy is also available at _____ (details of location). The instrument of proxy duly signed by the owner(s) must be lodged with the convenor of the owners' meeting (address : _____) at least 48 hours before the time for the holding of the meeting.

Name of the meeting convenor :

Signature of the meeting convenor :

Sources : Home Affairs Department's website https://www.buildingmgmt.gov.hk/en/reference_materials/10_1.htm

FORM 1

INSTRUMENT OF PROXY FOR MEETINGS OF OWNERS

Meeting of the owners of _____
(description of building)

I/We, _____ (name(s) of owner(s)), being the owner(s) of _____ (unit and address of building), hereby appoint _____ (name of proxy) *[or failing him _____ (name of alternative proxy)], as my/our proxy to attend and vote on my/our behalf at the meeting of the owners of the building described above, to be held on the _____ day of *[and at any adjournment thereof].

Dated this _____ day of .

(Signature of owner(s))

*Delete where inapplicable.

The format as shown in this instrument is the statutory one which is set out in the *Building Management Ordinance* (Form 1 in Schedule 1A). No alteration of the format is permitted.

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

Statement of Purposes in respect of Collection of Personal Data

(Document attached to the Instrument of Proxy) (Sample)

(for reference only)

Purpose of Collection

1. This instrument is to be used by you to appoint a proxy to attend the owners' meeting of this building held for the purpose of forming an owners' corporation (OC) and appointing a management committee (MC). Your proxy will form the quorum and vote on your behalf at the meeting.
2. The convenor of the meeting may follow up on the personal data you provided in this instrument and, if necessary, will contact you for the purpose of verifying the validity of the appointment of your proxy.

Consent of your Proxy

3. You should obtain the consent of your proxy in using his/her personal data provided in this instrument, and provide your proxy with this statement, informing him/her of the purpose for collecting his/her personal data.

Classes of Transferees

4. The convenor of the meeting and/or the new OC and its MC may disclose the personal data you provided in this instrument to other owners of this building, and/or other relevant persons and bodies for the purposes mentioned in paragraph 2 above.

Access to Personal Data

5. You have the rights of access and correction to the personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance, Cap. 486. Your right of access includes the right to obtain a copy of your personal data provided in this instrument.

Enquiries

6. Enquiries concerning the personal data collected by means of this instrument, including requests for access to and correction of data, should be directed to the convenor of the meeting (Telephone Number:).

Sources : Home Affairs Department' s website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

Acknowledgement Receipt of the Instrument of Proxy (Sample)

Sample 4

_____ (Date)

To : # The owner(s) of/body corporate which owns Flat _____ , Floor _____ , Block _____

Meeting of the owners of

_____ (Name of Building)

(Date and time of the meeting: _____ #a.m./p.m. on _____)

I hereby acknowledge receipt of the instrument of proxy lodged by you.

As the convenor of the meeting, I shall determine the validity of the instrument in accordance with section 3(10)(e)(ii) of the *Building Management Ordinance*.

Name of the convenor of the meeting :

Signature of the convenor of the meeting :

Delete where inapplicable.

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

List of Flats with Instruments of Proxy lodged (Sample)

Meeting of the owners of

_____ (Name of Building)

Date :

Time :

Venue :

The owners of the flats listed below have lodged the instruments appointing proxies with the convenor of the meeting :

Flats		

Note :

(1) The convenor of the meeting shall display a list of the flats whose owners have lodged the instruments of proxy (irrespective of validity) in a prominent place in the place of the meeting before the time for the holding of the meeting and cause the list to remain so displayed until the conclusion of the meeting.

(2) Those flats whose instruments of proxy have been determined to be invalid by the convenor of the meeting are marked with a sign.

Sources : Home Affairs Department's website https://www.buildingmgmt.gov.hk/en/reference_materials/10_1.htm

FORM 2

INSTRUMENT OF PROXY FOR MEETINGS OF CORPORATION

The Incorporated Owners of _____
(description of building)

I/We, _____ (name(s) of owner(s)), being the owner(s) of _____ (unit and address of building), hereby appoint _____ (name of proxy) *[or failing him _____ (name of alternative proxy)], as my/our proxy to attend and vote on my/our behalf at the [*general meeting/ annual general meeting] of The Incorporated Owners of _____ (description of building), to be held on the _____ day of *[and at any adjournment thereof].

Dated this _____ day of .

(Signature of owner(s))

*Delete where inapplicable.

The format as shown in this instrument is the statutory one which is set out in the *Building Management Ordinance* (Form 2 in Schedule 1A). No alteration of the format is permitted.

Sources : Home Affairs Department's website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

**Statement of Purposes in respect of
Collection of Personal Data (Sample)**

(for reference only)

Purpose of Collection

1. This instrument is to be used by you to appoint a proxy to attend the general meeting of the corporation/ the annual general meeting of the corporation and any adjourned meeting (of applicable). Your proxy will form the quorum and vote on your behalf at the meeting.
2. The chairman and/ or secretary of the management committee (MC) of the owners' corporation (OC) may follow up on the personal data you provided in this instrument and, if necessary, will contact you for the purpose of verifying the validity of the appointment of your proxy.

Consent of your Proxy

3. You should obtain the consent of your proxy in using his/her personal data provided in this instrument, and provide your proxy with this statement, informing him/her of the purpose for collecting his/her personal data.

Classes of Transferees

4. The OC and its MC may disclose the personal data you provided in this instrument to other owners of this building, and/or other relevant persons and bodies for the purposes mentioned in paragraph 2 above.

Access to Personal Data

5. You have the rights of access and correction to the personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance, Cap. 486. Your right of access includes the right to obtain a copy of your personal data provided in this instrument.

Enquiries

6. Enquiries concerning the personal data collected by means of this instrument, including requests for access to and correction of data, should be directed to secretary of the MC (Telephone Number:).

Sources : Home Affairs Department' s website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

**Acknowledgement Receipt of
the Instrument of Proxy (Sample)**

_____ (Date)

To : # The owner(s) of/body corporate which owns Flat _____ , Floor _____ , Block _____

General Meeting of _____

(name of owners' corporation)

(Date and time of the meeting: #a.m./p.m. on _____)

I hereby acknowledge receipt of the instrument of proxy lodged by you.

According to paragraph 4(5)(b) of Schedule 3 to the Building Management Ordinance, the chairman of the management committee or, if he is absent, the person who presides at the meeting shall determine the validity of the instrument.

Name of the secretary of the management committee :

Signature :

Delete where inapplicable.

Sources : Home Affairs Department' s website https://www.buildingmgt.gov.hk/en/reference_materials/10_1.htm

**List of Flats with
Instruments of Proxy lodged (Sample)**

General Meeting of _____
(name of owners' corporation)

Date :

Time :

Venue :

The owners of the flats listed below have lodged the instruments appointing proxies with the secretary of the management committee —

Flats		

Note :

(1) The secretary of the management committee shall display a list of the flats whose owners have lodged the instruments of proxy (irrespective of validity) in a prominent place in the place of the meeting before the time for the holding of the meeting and cause the list to remain so displayed until the conclusion of the meeting.

(2) Those flats whose instruments of proxy have been determined to be invalid by the chairman of the management committee or, if he is absent, the person who presides at the meeting are marked with a sign.

Sample Form for Declaration of Conflict of Interest

Part A – Declaration of Interest

To : *Secretary/Chairman of the Management Committee

Declaration of Interest

I understand that if I, my family members and close relatives and personal friends have any direct or indirect interest in any company which has business dealings with the Owners' Corporation (OC), I shall make a declaration to the Management Committee.

I would like to declare the following existing/potential* conflict of interest situation arising from the discharge of my duties concerning the operation of the Owners' Corporation or as members of the Management Committee:-

a) Persons/companies with whom/which I have official dealings :

b) My relationship with the persons/companies (e.g. relative)

c) Relationship of the persons/companies with the OC (e.g. supplier)

d) Brief description of my duties which involved the persons/ companies
(e.g. handling of tender exercise)

Position and Name: _____

Signature _____

Date _____

(*Delete as appropriate)

Part B – Record of Resolution of the Management Committee

Record of Resolution of the Management Committee

With respect to the above declaration, the Management Committee passed the following resolution:

(name of the person making the declaration) should refrain from performing or getting involved in performing the work/duty, as described in Part A, which may give rise to a conflict.

(name of the person making the declaration) may continue to handle the work/duty as described in Part A, provided that there is no change in the information declared above.

Others (please specify)

Secretary: _____

Chairman: _____

Signature: _____

Signature: _____

Date of Meeting: _____



Engage Professional Work Consultant for the Rehabilitation Project



Step 2 Milestones :

2.1 Define Works Consultant's Service Scope

- Understand the reasons for engaging works consultant
- To understand the service scope of works consultant



2.2 Engage Work Consultant in Compliance with *Building Management Ordinance* and *Code of Practice on Procurement of Supplies, Goods and Services*

- Understand the regulations on procurement of works consultant stipulated in *Building Management Ordinance*
- Understand the codes of practice on procurement of works consultant stipulated in *Building Management Ordinance*
- Understand 'Smart Tender' Building Rehabilitation Facilitating Services



2.3 Open and Analyse Tenders

- Open, analyse and assess tenders received

2.4 Interview Works Consultant

- Understand the interview flow
- Understand the reference questions for interview

2.5 Convene Owners' Meetings on Selection of Works Consultant

- Recommended procedures

2.6 Enter into Consultancy Contract with Successful Tenderer

- Use recommended sample document
- Understand works consultant supervision measures



Step 2: Engage Professional Works Consultant for the Rehabilitation Project



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

Section 2.1 Define Works Consultant's Service Scope

Before engaging a professional works consultant, **owners/OCs** should understand thoroughly the consultancy service scope. It is advisable to specify clearly and lucidly the scope of services in the tender documents for interested tenderers to grasp **owners/OCs'** requirements, so that more precise, comprehensive and reasonable estimation of necessary manpower and service pricing can be reached. This, in turn, will facilitate easier comparison while minimising the risk of future disputes between **owners/OCs** and the works consultant.

2.1.1 What is a Works Consultant?

Since interdisciplinary expertise is involved in building rehabilitation works, **owners/OCs** should engage appropriate building professionals and/or works consultancy firms ('works consultant') to assist in building inspection, make recommendation on the scope of works, formulation of tender documents, procurement of works contractors, supervision of works quality and progress, verification of work expenses, provision of professional advices on technical issues and acceptance inspection, etc. In addition to professional knowledge, expertise and resources, integrity and impartiality are also essential for works consultant to fulfil their professional and contractual responsibilities.

Engage an Appropriate Works Consultant

In general, works consultant are qualified building professionals involved extensively in matters concerning building construction, reconstruction and rehabilitation, such as architects, engineers and surveyors. They must comply with the code of professional ethics/conduct stipulated by individual **professional institutes**¹ and **registration boards**².

¹ Professional institutes include The Hong Kong Institute of Architects, The Hong Kong Institute of Engineers, The Hong Kong Institute of Surveyors and Royal Institution of Chartered Surveyors, etc.

² The relevant registration boards include Architects Registration Board, Engineers Registration Board and Surveyors Registration Board.

(i) **Authorised persons, registered inspectors and registered structural engineers**

Authorised persons, registered inspectors, registered structural engineers and registered geotechnical engineers are prescribed building professionals³ registered at and regulated by the **Building Authority** on its approval

(ii) **Building professionals**

Owners/OCs can refer to the latest list of qualified members published by the relevant **professional institutes**. It is imperative to note that not all qualified building professionals are registered as authorised persons, registered inspectors or registered structural engineers, nor do all of them possess extensive experience on building rehabilitation. Therefore, **owners/OCs** should take into account the relevant experience of building professionals before engaging them.

(iii) **Works consultancy firms⁴**

While building professionals are registered and qualified as an individual, the actual provision of works consultancy services are generally executed as a firm, where active and sufficient provision of resource support are usually in place to guarantee the quality of professional services. **Owners/OCs** should take into account their needs and the scope and nature of their intended works items to decide whether building professionals operating as an individual or amateur without organisational support are to be engaged.

³ ‘Prescribed building professionals’ are building professionals registered at and approved by the **Building Authority**. They are qualified to execute tasks and procedures stipulated in the *Buildings Ordinance*, and shall fulfil their relevant responsibilities in planning, supervising and certifying the satisfactory completion of building rehabilitation works. A list of prescribed building professionals with their contact numbers is available on the Buildings Department (BD) website (<https://www.bd.gov.hk/en/resources/online-tools/registers-search/index.html>) for reference.

⁴ In general, ‘Work consultancy firms’ offer work consultancy services as a company, not an individual. While their responsible personnel can be building professionals, other such professionals and technicians may also be appointed to support day-to-day operations and provide relevant services.



Useful Tip

What are the differences between work consultancy firms and building professionals?

	Authorised persons, registered inspectors and registered structural engineers	Building professionals (such as architects, engineers and surveyors)	Works consultancy firms
Identity	Individual	Individual	Company

Registration or Regulatory Authority	Buildings Department	Architects Registration Board, Engineers Registration Board and Surveyors Registration Board	Companies Registry
---	----------------------	--	--------------------

Factors for consideration Owners/OCs should evaluate the following factors against the scope of works, their complexity and owners/OCs' understanding of and trust in the work consultants when determining the type of work consultant to be procured and its mode of operation.

- Resource sufficiency
- Ability to fulfil the contract (may refer to their track records) / Professional standard and qualifications
- Manpower allocation (backup and support)
- Financial capacity

Why Engage Works Consultant?

Before building rehabilitation works commence, **owners/OCs** should understand the specific requirements for the personnel carrying out or supervising rehabilitation works as stipulated in *Buildings Ordinance* (e.g. Minor Works Control System⁵, which stipulates that **owners/OCs** shall, subject to the class of the works concerned [3 classes in total], engage **prescribed building professionals** and/or **prescribed registered contractors** to carry out minor works in compliance with statutory requirements).

The *Buildings Ordinance* also stipulates that **prescribed building professionals** shall submit designated forms and relevant documentation for specific types and classes of works to the **Building Authority**. The works consultant should verify and sign other relevant documentation such as building inspection reports, rehabilitation proposals and advices, etc. before submitting them to **owners/OCs**.

On the other hand, since many **owners/OCs** may not possess the professional knowledge involved in assessing building conditions and drafting tender documents and work specifications, it is imperative for them to engage qualified works consultant to handle such tasks. **Owners/OCs** should consult relevant government departments or the works consultant to grasp relevant statutory requirements.

➔ **To learn more about the Minor Works Control System – Please refer to [Section 4.1.2](#)**



Useful Tip

Implementing other professional repair and maintenance works

If **owners/OCs** intend to carry out, in parallel to the rehabilitation project, other repair and maintenance works that require certain expertise, such as fire service, asbestos, gas pipes and lifts etc., they must take into account the complexity of the works concerned and consider engaging relevant consultants (professionals) to assess and advise on the matter, and/or hire relevant work contractors to carry out such works in compliance with relevant statutory requirement.

To understand the laws concerning professional repair and maintenance projects – Please refer to [Appendix I](#)



⁵ For details of the Minor Works Control System, please refer to BD website (<https://www.bd.gov.hk/en/building-works/minor-works/index.html>).



Simulated Scenario

The "Fire Safety Directions" issued by the BD and FSD which instructed the **owners / OCs** to carry out improvement works on fire safety installations and equipment. The **owners/OCs** convened a meeting to discuss the appointment of consultants and contractors to deal with the matters. At the meeting, some owners said that they could appoint a registered fire contractor to carry out fire improvement works directly instead of appointing a consultant.

Point to discuss:

Under the Fire Safety (Buildings) Ordinance, **owners/OCs** are required to employ registered fire service installation contractors to carry out installation or improvement works on "fire service installations and equipment" (such as Automatic sprinkler system, Fire hydrant and hose reel system, etc.) and Construction works (such as fire doors, fixed windows and enclosures to non-emergency services installations, etc.) for the "Fire Safety Construction" require the engagement of a registered general building contractors / registered minor works contractors.

Some of **owners/ OCs** would appoint the consultant at the early stage to prepare the preliminary design, calculate the structural load of the improvement work of fire safety construction. The purpose is to shorten the approval time of contractor's submission at post contract stage.

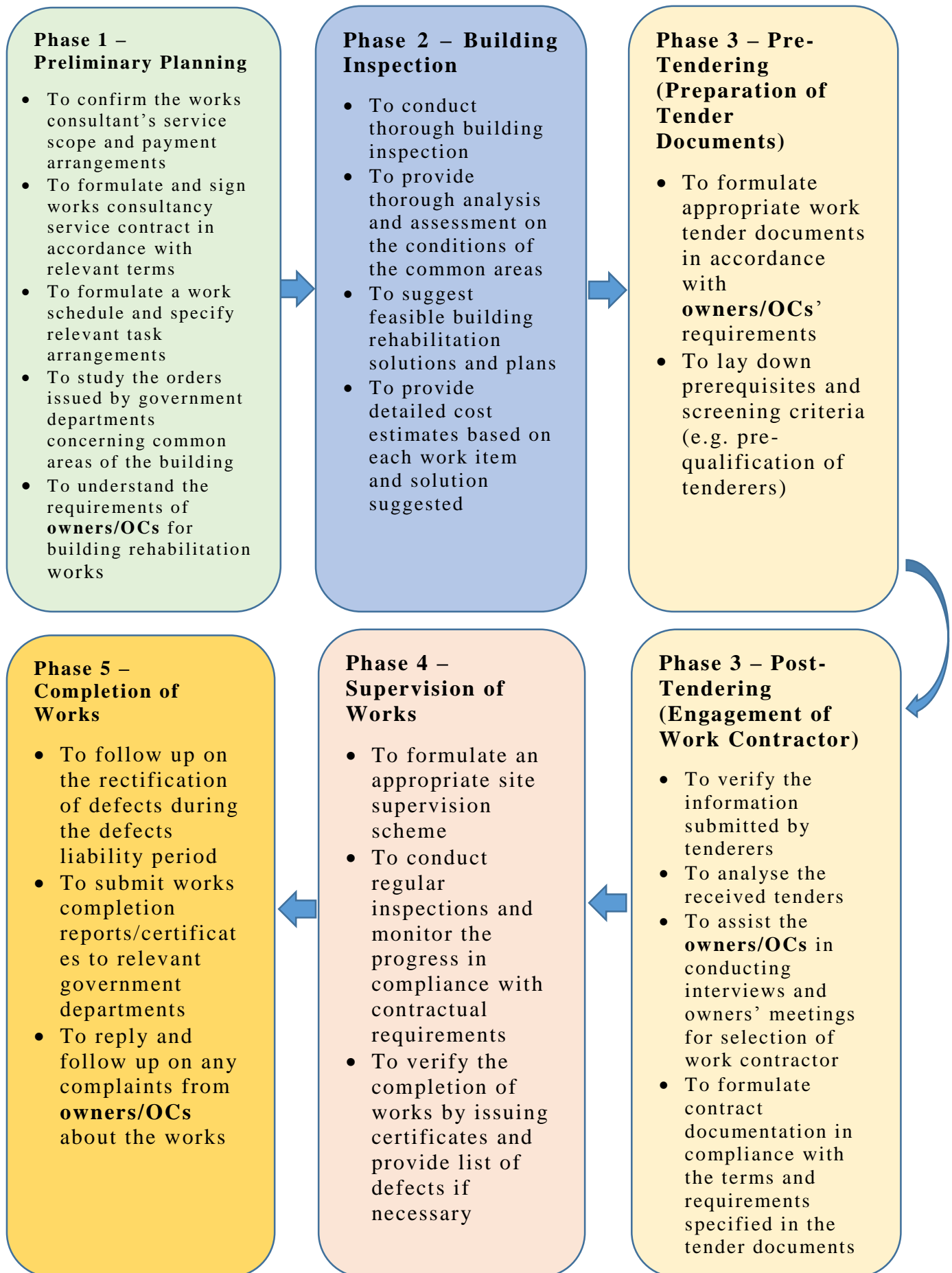
As the fire improvement works are more complicated, the approval procedures of different government departments will be involved. If the **owners/OCs** can receive the advice and comment of the relevant departments on the preliminary design of the works in advance, this will not only help the **owners/OCs** to understand the project prepare a more detailed tender document, and estimates of cost can be more accurate. This not only to reduce the additional works after the commencement and helps the contractors to know more about the scope of the works, by having a better grasp of the duration of the works and the budget, contractor will be more willing to submit bid and the reasonable quotations.

2.1.2 Basic Service Scope of Works Consultant ⁶

A works consultant with a high degree of integrity and professionalism is the right hand of **owners/OCs**, who helps accomplishing the remaining milestones in '6 Steps to Building Rehabilitation'. Generally speaking, the duties and service scope of a works consultant cover key areas in all the stages from Step 2 to Step 6. These can be categorised roughly into five service phases, including but not limited to:

⁶ **Owners/OCs** may add this section to the tender document and contract for work consultant, with appropriate amendments based on the conditions of individual buildings.

Five Phase of Works Consultancy



To learn more about work consultant’s basic service scope – Please refer to [Appendix II](#)

Section 2.2 Engage Works Consultant in Compliance with *Building Management Ordinance and Code of Practice on Procurement of Supplies, Goods and Services*

Rehabilitation is a highly complex task in building management. It entails not just general building management knowledge possessed by owners or managers in charge of the task, but also relevant expertise and experience. Moreover, the huge expenses involved make owners an easy prey for unethical works consultant or contractor, resulting in rip-offs or worse still, unfinished works. Therefore, compliance with the relevant laws and code of practice is a must for all parties involved if integrity and best practice are to be ensured in the course of building rehabilitation, in particular in the process of tendering and supervision.

2.2.1 Regulations on *Building Management Ordinance and Code of Practice on Procurement of Supplies, Goods and Services*^{7, 8}

Applicable to the buildings with OCs

All OCs are required to comply with the requirements for the procurement of supplies, goods and services under section 20A of the *Building Management Ordinance*. For the avoidance of doubt, all procurement by OCs of supply of goods, goods and services which are required to be obtained by tendering under section 20A of the *Building Management Ordinance* and paragraph 5 of the Seventh Schedule, must follow the provisions on the *Code of Practice* for the Procurement of Goods, Goods and Services ("*Code of Practice*")

⁷ This *Code of Practice* on Procurement of Supplies, Goods & Services (*Code of Practice*) is issued by the Secretary for Home Affairs, as the Authority under the *Building Management Ordinance* (Cap. 344) (BMO), under section 44(1)(a) of the Ordinance. *Code of Practice* on Procurement of Supplies, Goods & Services (Effective from 1 September 2018) , please refer to Home Affairs Department's website (https://www.buildingmgt.gov.hk/en/legislation/3_3.htm).

⁸ Recommended also refer to The *Administrative Guidelines on Best Practices on Building Management* was published by the **Home Affairs Department** on 1st January 2019, please achieve the information from below website https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Chi.pdf

Applicable to the buildings without OCs

For buildings without an OC, pursuant to section 34E of the BMO, the provisions in Schedule 7 shall be impliedly incorporated into every Deed of Mutual Covenant (DMC) made before, on or after the material date as provided under section 34D of the BMO. The DMC manager or any other person who for the time being is, for the purposes of the DMC, managing the building, shall comply with Schedule 7 to the BMO and this *Code of Practice* in relation to the procurement of supplies, goods and services.

 **To know more about the *Code of Practice*?—Please refer to [Appendix III](#)**



Useful Tip

Important note for buildings without OCs:

Items resolved during the planning phase of the rehabilitation project may require unanimous approval of all owners or be subject to the relevant terms in the Deed of Mutual Covenant (DMC). For details, please consult legal professionals.

Summary of procurement procedures⁹

- (i) If contract value of appointment of consultant which exceeds or is likely to exceed :
 - \$200,000¹⁰ ; or
 - 20% of the annual budget of the OC¹¹ ; (subject to the lower)Shall be procured by invitation to tender by the OC.

- (ii) Moreover, if the contract value of appointment of consultant which exceeds or is likely to exceed 20% of the annual budget of the OC, the MC shall submit all the tenders received to a general meeting of OC. Whether a tender is accepted or not shall be decided by a resolution passed by a majority of votes at the general meeting of the OC. Where there are more than two alternatives and no option receives majority votes in the first round of voting, the general meeting of the OC will have to conduct a second round of voting in order to comply with the majority requirement. Some plausible methods of voting are –

⁹ Refer to Section 20A and 44 of BMO

¹⁰ Refer to Section 20A (2)(a) of BMO

¹¹ Refer to Section 20A (2)(b) and (2B) of BMO

- (a) Progressive elimination – After the first round of voting, the general meeting of the OC may eliminate the option with the least number of votes and then carry out the second round of voting. If there is no option which receives majority votes, another round of voting will be carried out, with one more option being eliminated. If this goes on, only two options will be left in the final round of voting. Either one of the options will receive majority votes;
- (b) Short-listing – After the first round of voting, the general meeting of the OC may short-list the two options which gain the greatest number of votes for a second round of voting. This also means that the ultimate choice fulfils the majority requirement;
- (c) Confirmation – A second round of voting could be carried out to confirm the option which has attained the greatest number of votes in the first round. This also ensures that majority votes are achieved.

Value of the supplies, goods or services	Shall be procured by invitation to tender	Whether a tender is accepted or not shall be decided at a general meeting of the OC
> \$ 200,000	✓	Please refer to p. 79 Useful Tip
> 20% of the annual budget of the OC	✓	decided by a resolution passed by a majority of votes at the general meeting of the OC

- (iii) To reduce possible disputes arising from the signing of contracts between OCs and suppliers/contractors ¹² within a very short period of time after the passing of resolutions on certain major projects, for tenders whose value exceeds 20% of the annual budget of the OC, the OC concerned should consider, having regard to the circumstances of the case, signing the contract with suppliers/contractors at least one month after the passing of the relevant resolution at a general meeting of the OC. ¹³

¹² All the supplier should be included, for example the consultant company which providing consultancy services

¹³ Paragraph 8.1 under *Code of Practice* on Procurement of Supplies, Goods and Services.



Useful Tip

If the contract value of appointment of consultant does not exceed 20% of annual budget of OC, the tenders should be submitted for MC to decide whether to adopt or not. However, it is still recommended to convene the owners' meeting if possible in order to increase the transparency and acceptability. After reviewing the tender, the MC may select a number of them for recommending to the owners.



Useful Tip

Waiver for tendering ?

According to section 20A(2A) of BMO, if the OC intends to continue the engagement of the incumbent supplier and the following conditions are met, the tendering requirement stipulated in the BMO may be waived. In other words, though the value of procurement exceeds \$200,000 or 20% of the annual budget of the OC, tendering is not required if the following conditions are met.

Conditions are as follow :

- ◆ the supplier concerned must be the one engaged by the OC for the time being;
- ◆ the supplies, goods or services to be procured by the OC are of the same type as those which are for the time being supplied by the supplier; and
- ◆ the OC decides by a resolution of the owners passed at a general meeting of the OC that
 - invitation to tender will not be made; and
 - the supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution.

All the above conditions must be met for the OC to be allowed to waive the tendering requirement. However, OCs should conduct tenders to obtain the latest market information.



Please refer to *A Guide of Building Management Ordinance (Cap. 344)* (Chapter 10 Procurement Arrangement for Owners' Corporation)



Useful Tip

Consequences of non-compliance with procurement requirements

If the OC does not comply with the Code of Practice, the matter itself will not expose the OCs to any kind of criminal legal process. However, the failure of the corporation to comply with the Code of Practice can help to determine or deny the legal liability in the relevant legal proceedings.

- Any procurement contract made by the OC shall not be void by reason only that it does not comply with Code of Practice.
- Failure of the OC to comply with the procurement requirements stipulated in the BMO (i.e. to procure by invitation to tender or decide whether a tender is accepted or not by a resolution of the owners passed at a general meeting of the OC) may have effect on
 - the validity of the procurement contract
 - the personal liability of the person who enters into the contract.



Please refer to *A Guide of Building Management Ordinance (Cap. 344)* (Chapter 10 Procurement Arrangement for Owners' Corporation)

2.2.2 How to Engage Works Consultant

Before engaging a works consultant, **owners/OCs** shall prepare tender documents and choose a tendering method.




Content of Tender Documents

The content of tender documents includes but not limited to:

- Orders issued by government departments (if any);
- Service scope of works consultant ➡ **For details, please refer to Section 2.1.2**
- General terms and conditions of the works consultancy service contract¹⁴
 - Rights of the employer (e.g. the right for the employer to decide whether or not to proceed with the subsequent phases towards the end of each project phase)
 - Payment arrangements
 - Insurance
 - Service termination procedures
 - Indemnification undertaking¹⁵
 - Contractual dispute handling procedures



¹⁴ Wherever possible, **owners/OCs** are recommended to use tender and sample document prepared by **professional institutes** (e.g. The Hong Kong Institute of Architects, The Hong Kong Institutes of Engineers, The Hong Kong Institutes of Surveyors and Royal Institution of Chartered Surveyors etc.) or those to be launched by Building Rehabilitation Platform. For details, please refer to Building Rehabilitation Platform website (<http://www.brplatform.org.hk>).

¹⁵ The works consultant shall indemnify the OC for any losses caused by professional negligence.

- Breakdown of Professional Consultancy Service Fees
- Other tender terms
 - Probity and Anti-Collusion Clauses ([Sample 1](#)) 
 - Ethical Commitment Clauses ¹⁶ ([Sample 2](#)) 
 - Non-Collusion Clauses and Non-Collusive Tendering Certificate ([Sample 3](#)) 
 - Due date, time and address for tender submission

Tender for Works Consultancy Service Contract

Common tendering methods for works consultancy service contract include :

Method	Note
Open tendering	<ul style="list-style-type: none"> • Invite works consultant to submit expressions of interest/tenders through public channels such as newspaper advertisement (Template 4)  / (Template 5) . • In the case where pre-qualification (non-mandatory) process is in place, the relevant criteria must be specified in the open request for expression of interest, followed by distribution of tender documents to all eligible and interested tenderers.
Selective Tendering	<ul style="list-style-type: none"> • A shortlist of works consultant must be drawn up beforehand in compliance with <i>Building Management Ordinance</i> and <i>Code of Practice</i>, followed by distribution of tender documents to shortlisted works consultant.



Useful Tip

Best Practice on Building Management

The *Administrative Guidelines on Best Practices on Building Management* was published by the **Home Affairs Department** on 1st January 2019, featuring best practices on building management in various fields, including the formation of **OC**, procurement procedures, owners' meetings and the use of proxy instruments and financial arrangement, etc.

For more information, please visit the following website

https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Eng.pdf.

¹⁶ **Owners/OCs** are recommended to include the relevant terms in the tender documents for tenderers' information in advance. **Owners/OCs** should ask the successful tenderer to confirm and sign the 'Declaration on Compliance with Ethical Commitment Requirements' as part of the work consultancy contract awarded.

 **Useful Tip**

In addition to compliance with relevant requirements in the *Building Management Ordinance*, OCs are also recommended to adopt open tendering and convene an owners' meeting for the voting and selection of work consultant wherever possible to enhance transparency and legitimacy. It is advisable to waive all administrative fees, otherwise interested tenderers may be discouraged and competitiveness of returned tenders may be undermined.

2.2.3 Understand 'Smart Tender' Building Rehabilitation Support Services¹⁷

Purpose

To assist building owners in getting more information about building rehabilitation and the market, with a view to enhancing fairness, impartiality and competitiveness in the procurement of works consultant and contractor.

Eligibility Criteria

All private residential or composite (for both commercial and residential uses) buildings not in single ownership, except buildings of three storeys or less and New Territories Exempted Houses.

Service Scope

- To provide 'DIY Toolkit' covering standard templates and advices/mandatory terms and clauses for the procurement of authorised persons/registered inspectors and registered works contractors, as well as relevant guidelines and points to note in the planning of building rehabilitation works;
- The Urban Renewal Authority (URA) will engage independent professionals for the successful applicants to offer expert and technical advices on general building rehabilitation matters at various stages, such as provision of cost estimates, and review of inspection reports, tender documents, work cost estimates and tender analysis reports prepared by authorised persons/registered inspectors;
- The URA will act as an agent to provide an electronic tendering platform for successful applicants to engage works consultant and contractor; and to engage Certified Public Accountant (CPA) (or independent professional) to handle tender opening procedures for successful applicants.

¹⁷ For details, please refer to 'Building Rehab Platform' website (<http://www.brplatform.org.hk>). Information about work consultant procurement services will be announced in due course

Section 2.3 Open and Analyse Tenders

2.3.1 Analysis and Assessment of Consultancy Service Proposals

When the deadline for tender submission is due, **owners/OCs** should commence tender opening procedures in which received tenders are analysed. To ensure the confidentiality of information, owners/OCs should take appropriate measures to protect received tenders and their collection boxes. In addition to the fulfilment of basic tendering requirements, **owners/OCs** should also assess tenderers by making detailed comparisons for prices and other non-pricing related factors. This section suggests non-mandatory but practical measures that helps prevent corruption and minimise the risk of collusive tendering.

 **For more information about anti-corruption – Please refer to [Appendix V](#)**



Useful Tip

Verifying professional qualifications of work consultants

Owners/OCs can verify if the work consultants are holders of valid registered documentation (e.g. registration certificate as authorised person/registered inspector) and other professional qualification documentation/licences (e.g. certificates issued by professional institutes). They can also visit the websites of the BD and the professional institutes concerned to review the relevant registers.



For more information about work consultants – Please refer to [Section 2.1.1](#)

Price comparison alone does not constitute a thorough analysis of consultancy service proposals. In addition to service quotation, **owners/OCs** should also ask tenderers to provide information facilitating the analysis of their capability. This includes the tenderer's background, track records (such as past work projects and their costs submitted for reference), company resources and current workload, its responsible personnel's qualification/relevant experience, duties and level of involvement, as well as level of expertise and goodwill etc. In so doing, **owners/OCs** can gain a thorough understanding of the tenderers while ensuring their provision of effective and sufficient professional services for the intended works.

2.3.2 Risk management/Tips for preventing corruption and malpractices (Tender Assessment Panel)

When conducting evaluation of tenders for consultancy agreement, OCs/MCs are advised to:

To do

- ✓ assign a tender assessment panel which may comprise representatives from property owners, MC and the property management company (if any) to assess the tenders ;
- ✓ require all members of the panel to declare whether or not they have any conflict of interest arising from their relationship with the tenderers ;
- ✓ determine the evaluation criteria, e.g. any essential/mandatory non-price factors, before tender opening (e.g. working experience and size of company) ;
- ✓ disclose the broad evaluation criteria to all tenderers in the tender invitation (if applicable) ;
- ✓ assess the reasonableness of the consultancy fees, based on the consultants' proposed manpower input and the fees breakdown for consultancy services at various stage or making reference to the fee scale published by the Hong Kong Institute of Surveyors or practices of reputable firms.

Avoid

- × making untrue / unfair comments on the performance of other tenderers ;
- × changing the evaluation criteria, adding new and irrelevant criteria/ requirements to screen out the lowest bidder, etc. during evaluation ;
- × accept the additional services provided by the tenderer for free.



Useful Tip

Do make sure the tendering exercise is fair and unbiased, if **owners/ OCs** , decide not to recommend the best tender assessed based on the criteria after tender evaluation, there must be a valid reason. You have to record it clearly and explain to owners in details.

2.3.3 The Tender Price as the only assessment criteria is not recommended

For the consultancy services tender assessment, the price may be the essential factor for consideration. However, it is not satisfactory to use the price factor only and adopt the lowest price. And it may overlook other important factors such as the scope of services of consultants, working hours and the level of involvement of professionals.

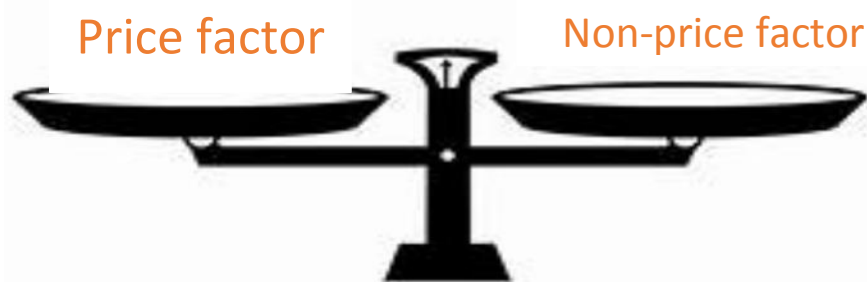
There is not much information of the fee level of consultancy services in market for reference. Owners/OCs should also try to analyse the consultancy service proposals from various angles. Except the price factor, non-price factors should also be considered to ensure that the consultants provide effective and sufficient professional input to the building rehabilitation project.



Useful Tip

Owners/ OCs should pay attention to the fee level of the consultants which should be at reasonable level. The owners/corporations may try to understand the following issues:

- Is the charge too low in proportion to the resources to be placed? Can the consultant make profit?
- Does the consultant have reasons for the high fees?



2.3.4 Checklist of Common non-price factors (Assessing and considering factors other than the tender price)

Experience on Building Rehabilitation project

For consultant's relevant experience in overseeing building rehabilitation projects of similar scope and complexity, request consultant to provide the project details and contract value in the past few years. When setting the evaluation criteria, Owners/ OCs should consider the scale and the scope of services commensurable to their project. It is not appropriate to set unnecessary requirements which may lead to reduced numbers of tenderers and push up the price.

Company resources and workload

Consultant's company resources and current workload, i.e. the number of full-time/part-time professional and technical staff, (e.g. APs, RSEs, resident inspectors of works and works supervisor), and the number and details of ongoing projects.

Consultant's staffing proposal for the building maintenance project

- Qualifications and relevant experience of key personnel (e.g. Authorized Person, project manager, inspector of works)
- Responsibilities and degree of involvement of key personnel (e.g. proposed man/hours of individual key personnel)
- Consultant's past performance
- Letters of recommendations from previous employers/OCs



Simulated Scenario

An OC invited open tenders for the selection of works consultant for its building maintenance project. A works consultant submitted a bid of a fixed amount that was unreasonably low. When queried, the works consultant made up excuses such as only aiming at gaining a reference in the district, having a number of projects in the district that shared out the overhead costs, etc. The OC was attracted by the low price and voted for the works consultant.

When implementing the project, the works consultant accepted rebates from the works contractor, who colluded with other tenderers to inflate the prices of the maintenance works required, and used inferior materials with the works consultant's connivance.

In the end, the OC paid much more than what they would have for their maintenance works that were inferior in quality.

Section 2.4 Interview Works Consultant



2.4.1 Why interview?

While interview is not mandatory in the procurement process of works consultant, doing so offers **owners/OCs** a chance to gain a thorough understanding of each works consultant and to enquire about the tender contents.

By asking appropriate questions in the interviews, **owners/OCs** may gain a better understanding of the service scope and pricing, with a chance, too, to direct communicate with works consultant about matters concerning exceptional or individual circumstances.

Useful Tip

Choosing a works consultant on the sole merits of its interview performance?

While **owners/OCs** may arrange interviews if they see fit, it is not advisable to select a works consultant on the merits of its interview performance only. To minimise the risk of engaging an unethical works consultant, **owners/OCs** should understand each works consultant thoroughly from aspects including their professionalism, experience, qualification, goodwill, problem-solving capability and integrity.

Simulated Scenario

The OCs will arrange an interview for some of the works consultants after tender opening. Some of the works consultants will provide preliminary survey reports and related building rehabilitation proposals during the interview.


Point to discuss:

Do you think those works consultants behave properly?

In fact, this phenomenon is partly a consequence of vicious competition in the industry. Building surveys and provision of building rehabilitation programmes should be part of the services that the works consultants need to provide after their appointment. They should not provide such services free of charge during the interview period.

2.4.2 Interview Process Flow

In general, each interview should take about 20 to 30 minutes (to be adjusted depending on actual situation), which may begin with a self-introduction of the works consultant, followed by **owners/OCs'** questions. **Owners/OCs** may convene a meeting beforehand to discuss and define a pre-set list of interview questions. To ensure fair comparison, the interview duration for all works consultant shall not vary.

 **For questions to be asked in interviews with works consultant – Please refer to [Appendix IV](#)**



Useful Tip

Any negative opinions, disagreements or dissents expressed by members of tender assessment task force/Management Committee (MC) or owners during the interview should be documented in detail by **owners/OCs** for all owners' reference.

2.4.3 Arrangement for Price Negotiation (Optional)

After tender evaluation, some property **owners/OCs** may wish to get a better bargain and hence conduct negotiation with the tenderers for reduction of their tender prices. However, they should be wary of the opportunity for corruption and manipulation that this may open up.

 **To know more preventing corruption and malpractices? – Please refer to [Appendix V](#)**

Section 2.5 Convene Owners' Meetings on Selection of Works Consultant

2.5.1 Recommended Procedures

As mentioned, if the value of works consultancy services does not exceed 20% of the annual budget of the **OC**, then the **MC** may decide if the received tenders are to be accepted. Yet it is still recommended that the **OC** convene an owners' meeting wherever possible for **owners** to vote for desirable works consultant to enhance transparency and legitimacy of the process

➔ **To understand the procedures of convening a meeting and its requirements – Please refer to [Section 1.3](#)**



Useful Tip

Recommended Procedures

Owners/OCs should prepare an assessment report on received tenders in accordance with relevant criteria to communicate the assessment results and relevant information to owner. This will help enrich owners' understanding of the works consultants and their tenders, while allowing sufficient time for owners to raise questions and express opinions, thus eliminating unnecessary disputes in the future.

Owners/OCs can:


- Place a copy of complete analysis report with all necessary details at the property management office (if any) or other prominent location for **owners'** reference;
- Provide all **owners** with an abstract of the analysis report summary (say one to two pages) by mailbox drop, post or other feasible way to facilitate understanding of received tenders;
- Invite interested **owners** to participate in the interviews of works consultants wherever possible;
- Convene an owners' meeting to decide on the selection of works consultant wherever possible. **Owners** are recommended to participate actively in the meeting to enhance transparency and legitimacy of the process.

Section 2.6 Enter into Consultancy Contract with Successful Tenderer

2.6.1 Use Recommended Sample Documents

Upon passing the resolution on the engagement of the selected works consultant, **owners/OCs** should clarify the consultancy service scope, responsibilities of each contracting party and confirm the terms therein with the successful tenderer. To protect the interests of each contracting party, the Building Rehabilitation Platform is discussing with stakeholders on the preparation of sample documents for **owners/OCs**' use. Details are to be announced in due course.

2.6.2 Measures for Supervising Works Consultant

The works consultant's service scope, responsibilities and charges are generally stipulated in common consultancy contracts. The engaged works consultant shall provide professional consultancy services in compliance with the contract terms, and shall be managed by **owners/OCs** in compliance with such terms or relevant code of practice  ([Appendix VI](#)). As the majority of **owners/OCs** lack experience in works consultant supervision and contract management, which may result in the delay of progress and poor quality of works, this section will focus on the points to note and recommended feasible measures for better supervision of works consultant.

Contract Terms

Before signing the consultancy contract, **owners/OCs** should ensure the required service items/scope and proper indemnification clauses are specified in detail in the contract to protect their own interests. These include the responsible personnel, their service scope, responsibilities, charges, contract validity period, and arrangement relating to compensation for professional misconduct and contract termination.

⇒ **For more details on consultancy contract terms – Please refer to [Section 2.1.2](#)**

Works Schedule

Owners/OCs should instruct the works consultant to table a works schedule specifying task arrangement, workflow and estimated duration for discussion and approval. This will serve as a basis for supervision and for the works consultant to work in line with the agreed schedule. In case of delay, **Owners/OCs** should instruct the works consultant to provide explanations and rectification plans. **Owners/OCs** may request for and verify amendments to the approved schedule whenever necessary. The works schedule may also be posted at the lobby for reference and supervision purposes.

Organisational Chart of Management with Contact Telephone Numbers

An organisational chart of management helps identify discrepancies in the allocation and qualification between the manpower actually deployed and the relevant contract terms. It also offers a glimpse at the organisational structure of the responsible personnel and their contact information, which facilitates prompt resolution of possible problems in future.

Works Supervision Plans

It is imperative for the works consultant to formulate an appropriate management scheme for the whole rehabilitation project. The works consultant may, at the request of **Owners/OCs**, table the scheme for approval after signing the contract or before works commence. The works supervision proposal should cover code of practice for professionals and other engineers (such as supervision criteria and requirements), as well as frequency and arrangement of site supervision and inspection, etc.

Documents and Proofs Submitted

Upon completion of each phase, **owners/OCs** should instruct the work consultant to provide complete documentation of the works (e.g. inspection reports, work cost estimates and tender documents, etc.). These documents are to be kept for a reasonable period of time. Moreover, **owners/OCs** may seek additional information from the works consultant to support and justify individual professional advice or recommendation wherever necessary.

Regular Meetings

Owners/OCs should take the initiative to arrange and participate in regular meetings with the works consultant to understand the issues arisen in the planning of rehabilitation project and their solutions, with meeting minutes properly documented and archived.

Variation of Works

In the case of any contract modifications, **owners/OCs** should instruct the works consultant to provide evaluation and analysis on their impact on the works schedule and cost for consideration. **Owners/OCs** should also ensure that the works consultant shall not instruct the works contractor to proceed without their approval (except emergency works).

Payment Arrangement

Owners/OCs should pay the works consultancy fees on contract terms, and may request for documents such as reports, photos, certificates and government approval notices, etc. from the works consultant for reference and documentation. In the case where the services provided by the works consultant fail to meet the prescribed standards in the contract, the **owners/OCs** may, subject to the relevant contract terms, suspend relevant payments until the quality of services is rectified.

Termination of Service Contract

In the case where **owners/OCs** deem it necessary to terminate the works consultancy contract on the ground that the works consultant fails to meet the prescribed service standards or improve substandard service quality, or due to any other reasons, the **owners/OCs** may, at the end of each service phase and subject to the relevant contract terms, determine if they are to proceed with the subsequent service phases and notify the works consultant in writing of their decision to terminate the contract if necessary.

Indemnity

Subject to the relevant contract terms, **owners/OCs** may seek indemnification from the works consultant for losses caused by defects, negligence, faults or breaches of contract, etc. of the services provided by the latter (including its persons in charge, employees or agents).

Reference

1. Building Maintenance Toolkit published by ICAC
2. Building Management Toolkit published by ICAC
3. Building Maintenance Guidebook published by Buildings Department
4. Smart Tender DIY toolkit published by URA

Appendix – Relevant Information

Step 2

Appendix 1 – Laws Relating to Professional Rehabilitation Works

Appendix 2 – Basic Service Scope of Works Consultant

Appendix 3 – Summary of *Building Management Ordinance (Cap. 344)* & *Code of Practice on Procurement of Supplies, Goods and Services*

Appendix 4 – Reference Questions for Works Consultant Interview

Appendix 5 – Anti-Corruption Information (Building Rehabilitation Workflow – Step 2)

Appendix 6 – Code of Practice for Works Consultant

Laws Relating to Professional Rehabilitation Works

Departments	Related Legislation	Sources/ Hyperlinks
BD	Fire Safety (Buildings) Ordinance Cap.572 (Fire Safety Provision) ¹	http://www.bd.gov.hk/chineseT/services/index_fsi.html
FSD	Fire Safety (Buildings) Ordinance Cap.572(Fire Service Installations and Equipment) ²	http://www.hkfsd.gov.hk/chi/fs_buildings_commercial_premises_ordinance.html
EPD	Air Pollution Control Ordinance (Cap. 311) ³	http://www.epd.gov.hk/epd/tc_chi/environmentinhk/air/asbestos/asbestos.html
EMSD	Gas Safety Ordinance (Cap. 51) ⁴	https://www.emsd.gov.hk/tc/gas_safety/index.html
	Lifts and Escalators Ordinance (Cap. 618) ⁵	https://www.emsd.gov.hk/tc/lifts_and_escalators_safety/index.html

Remarks :

1. Shall appoint of Authorized Persons and/or Registered Structural Engineers and Registered Contractors to carry out required fire safety improvement works in accordance with the instructions.
2. Shall appoint registered Fire Service Installation Contractors for the improvement works of Fire Service Installations and Equipment.
3. Shall appoint a registered asbestos contractor to carry out the removal of the asbestos containing materials. They shall give a written notice to the Environmental Protection Department (EPD) not less than 28 days prior to the commencement of the work.
4. Shall appoint a registered gas contractor employing registered gas installers for regular check and repair.
5. Shall appoint Registered Lift and Escalator Contractor(s) for commissioning, examination, maintenance, repair, alteration or demolition of Lifts/ escalators.

Basic Service Scope of Works Consultant

Phase 1: Preliminary Preparation

1. To draft works consultancy service contract in accordance with the submitted tender and other undertakings agreed upon with **owners/OCs** (if any);
2. To clarify the scope of consultancy services and the responsibilities of each contracting party, so as to confirm contract terms;
3. To ratify the identities, qualifications, biographies and contact information of responsible personnel (such as authorised persons/registered inspectors /project managers);
4. To validate measures facilitating smooth change of personnel in the future, such as prior written notices stating the reason for such change;
5. To verify the identities of professionals responsible for building inspection and preparation of technical reports (with their names specified) and the number of meetings they are to attend (if applicable);
6. To verify the consultancy contract terms and validity period;
7. To validate measures relating to the future addition of any extra work items;
8. To clarify payment arrangements for each phase, other extra expenses and any reimbursements;
9. To sign the ‘Probity and Anti-Collusion Clauses’ and ‘Ethical Commitment Clauses’;
10. To sign the ‘Non-Collusion Clauses and Non-Collusive Tendering Certificate’ prepared by Competition Commission;
11. To discuss with **owners/OCs** on their purposes of and requirements for building rehabilitation (to be elucidated in the engagement contract if applicable);
12. To discuss with **owners/OCs** on the building’s rehabilitation track records and relevant information (such as previous defects and their rectification);
13. To study statutory orders, notices, advisory letters and written warnings issued by government departments concerning the building’s common areas, and to liaise between **owners/OCs** and government departments on rehabilitation and improvement works;
14. To draw up an estimated work schedule specifying task arrangements and workflow;
15. To formulate criteria and proposals for the supervision of contractor and work quality and progress in the future.

Phase 2: Implementation of Thorough Building Inspection and Formulation of Rehabilitation Proposal (Applicable to Common Areas Only)

Conduct Building Inspection

1. To conduct thorough building inspection covering structures of all common areas and public facilities through practical or feasible method (such as visual inspection, infrared detection and CCTV survey of underground drains);
2. To inspect, wherever possible, public facilities installed in private units to understand their conditions, and to document any areas where first-hand inspection is not possible;
3. To conduct questionnaire survey to gauge owners/residents' opinions on common areas; and to collect information about the condition of individual units for a more comprehensive analysis and assessment on the condition of common areas wherever necessary;
4. To carry out a thorough assessment of building condition based on all information collected, including any existing defects, dilapidations and disrepairs; and to indicate any existing installations and structures that contravene the regulations and ordinances in force;
5. To provide detailed analysis of the building's current condition and defects with explanations of their possible causes instead of photos and brief descriptions only. Where necessary, sketches or floor plans can be attached as supplementary information (Note: Owners should facilitate the building inspection carried out by the consultant wherever possible).

Formulate Rehabilitation Proposal with Detailed Cost Estimates

6. To suggest feasible rehabilitation plans and solutions in accordance with building inspection results for owners' approval;
7. To propose remedial or enhancement measures for each issue or defect found in the building;
8. To provide detailed cost estimates for each suggested work item and solution detailing any references and assumptions made;
9. To indicate any uncertainties that may arise from the works concerned, such as procedures that require individual owner's assistance, where the OC and the owner concerned should be notified beforehand for early planning and better coordination.

Phase 3: Engagement of Work Contractor and Analysis of Tenders

Pre-Tendering

1. To gain a thorough understanding of **owners/OCs**' expectations or requirements on the quality, results and budgeting of the rehabilitation project;
2. To reflect the **owners/OCs**' expectations and requirements in the tender documents through indication of material and work specifications;
3. To discuss and identify the scope of works to be covered in the tender documents with the **owners/OCs** in accordance with the above points;
4. To suggest appropriate tender submission methods for **owners/OCs**' consideration, and to assist in the pre-qualification of tenderers (non-mandatory) where necessary;
5. To set reasonable prerequisites and screening criteria for essential items before bid solicitation, and avoid unnecessary or unreasonably high threshold for tender submission or charging tenderers any 'administrative fee';
6. To publish bid solicitation in newspapers in the name of the subject building/OC only, with no mentioning of the consultant's names and identities (Note: Buildings that have met the relevant criteria are eligible to apply for 'Smart Tender');
7. To assist **owners/OCs** in handling enquiries during tender submission period in a professional and fair manner;
8. To specify written correspondence as the only means of communication between tenderers and **owners/OCs** on enquiries during tender submission period, with copies of such correspondences properly archived;
9. To use sample document prepared by professional organisations (if applicable) at present or the Building Rehabilitation Platform in the future under general circumstances, with appropriate amendments made in accordance with individual works.

Post-Tendering

10. To lay down parameters, criteria and assumptions for quantity and quality analysis before tender opening;
11. To confirm the quantity of tenders to be analysed with the **owners/OCs** beforehand (e.g. if all received tenders or only those who have met the basic criteria be analysed);
12. To verify whether the basic qualification and relevant licences of each tenderer have met the criteria. These include ‘registered work contractor’ licence issued by the BD or relevant government departments;
13. To analyse each received tender in terms of quantity, quality and pricing;
14. For quantitative analysis, price comparison charts must be furnished with detailed analysis on breakdowns;
15. For qualitative analysis, it is imperative to thoroughly evaluate all documents submitted by tenderers and verify their validity;
16. To shortlist works contractors for interview and propose recommendations with detailed rationale to **owners/OCs**;
17. To lay down relevant questions and workflow prior to the contractor interviews, and to host the interviews where all necessary information and clarification of any ambiguities in the tenders are to be collected from each tenderer;
18. To analyse the additional information collected after the contractor interviews and submit the finalised tender analysis report;
19. To offer **owners/OCs** a detailed elucidation and highlights of the tender analysis report before owners’ meetings;
20. To assist the owners/OCs with relevant paperwork during the owners’ meeting for the selection of works items and contractor; and to answer owners’ questions about the rehabilitation project;
21. To draft works contract in accordance with the terms and requirements stipulated in the tender documents after a tenderer is selected.

Phase 4: Supervision of Works Progress and Quality

1. To formulate an appropriate site supervision scheme specifying inspection frequency during work and the qualification and background of the inspectors;

2. To review and verify the adequacy and comprehensiveness of the documents submitted on contract terms, e.g. staff organisational charts, work schedule and procedure arrangements;
3. To confirm all necessary documents have been duly prepared, e.g. works insurance policy and performance bond (if applicable), etc. before the commencement of works;
4. To schedule progress meetings to be held in the course of works with the contractor and the **owners/OCs**;
5. To carry out management services prescribed in the consultancy contract during works;
6. To conduct regular site inspections to supervise the work progress and determine if the work quality complies with contractual requirements. It is advisable to give appropriate instructions to the works contractor on the spot whenever necessary;
7. To provide professional advice on the necessity and feasibility of additional works items suggested by the works contractor; and to assess whether the quote is reasonable;
8. To handle applications for interim payment and any claims made by the works contractor;
9. To conduct acceptance inspection upon completion of the works in compliance with contractual requirements and specifications; and to advise **owners/OCs** on the acceptance of each completed work item in terms of quality standards;
10. To certify substantial completion of rehabilitation works and prepare a schedule of defects for rectification by the contractor during defects liability period.

Phase 5: Completion of Works

1. To monitor the progress and quality of defect rectification works by the contractor and issue certificate of final completion before the defects liability period ends;
2. To liaise with relevant government departments on the completion of works stipulated in statutory orders/notices, including preparation and submission of reports/certificates of works completion wherever necessary;
3. To conduct regular building inspections and monitor the progress of rectification works during the defects liability period;
4. To reply and follow up on any complaints from **owners/OCs** about matters relating to the works.

Summary of *Code of Practice on Procurement of Supplies, Goods and Services under Building Management Ordinance (Cap.344)*

1. A Management Committee (MC) shall conduct a tender exercise in an open and fair manner.
2. In the exercise of his powers and the performance of his duties under the BMO, a member of the MC shall not solicit or accept any advantage from any supplier or contractor in relation to the tender.
3. An agent (including its employees) or employee of an OC is prohibited from soliciting or accepting any advantage arising from the performance of his duties. NA agent or employee of an OC shall declare in writing any actual or potential conflict of interest arising from the performance of his duties in accordance with the guidelines issued by the Independent Commission Against Corruption (ICAC).
4. An agent (including its employees) or employee of an OC should declare in writing whether he has any actual, potential or perceived conflict of interest at the start of preparation or deliberation of tender documents or as soon as he becomes aware of a potential conflict.
5. An agent (including its employees) or employee of an OC should take steps to avoid any conflict of interest with any prospective tenderer or tenderer by not putting himself in a position of obligation towards any of them, for example, by not accepting any favour or lavish or excessive entertainment, and not over-socialising with any of them.
6. A member of the MC shall disclose in writing to the MC any personal, business or pecuniary interest or any other relationship that he may have with the DMC Manager, Property Management Company, consultants or professionals service providers for the OC, or in any of the tenders to be considered by the MC or the OC. An MC member who has indicated a personal business or pecuniary interest in the tender shall withdraw from the meeting during the discussion concerned and abstain from voting on the selection of such tender at an MC meeting.

7. The DMC Manager or the Property Management Company (if any) and its employees shall be required to disclose in writing to MC any personal, business or pecuniary interest that he may have with any MC member, consultants or professional service providers for the OC, or in any of the tenders to be considered by the MC or the OC. The DMC Manager or the Property Management Company (if any) and its employees who have indicated a personal, business or pecuniary interest in the tender shall refrain from participating in any tender assessment or negotiation.
8. Any declaration by a member of an MC. An agent (including its employees) or employee of an OC should be recorded in the minutes of relevant MC meetings or as part of the tender documents and should be kept for at least six years.
9. The MC shall prepare an invitation to tender setting out the types of supplies, goods or services required, the respective estimated costs, the period open for tender and other terms and conditions of the relevant contract. A copy of the invitation to tender shall be displayed in a prominent place in the building.
10. MCs are advised to as far as practicable, having regards to the nature of the procurement, adopt open tendering, such as putting advertisements on newspapers, to enhance tender competition and minimise the risks of tender collusion.
11. An MC shall not split a contract of procurement from a contract which should have been made for the procurement of greater value for the sole purpose of avoiding the compliance of requirements in section 20A of the BMO.
12. The closing date and time for acceptance of tenders shall be clearly stated in the invitation to tender. Late submissions shall not be accepted.
13. MCs are advised to build in probity and anti-collusion clauses in the related tender documents. MCs may refer to the Building Management Toolkit issued by the ICAC for the sample probity and anti-collusion clause.
14. IF the tendering exercises involve mandatory works as stipulated in relevant statutory notices(s), order(s) or direction(s) issued by relevant government department(s) or authority(ies) (collectively referred to as government repair orders), such information should be made available to the owners-

- a) Before the invitation to tender is prepared (e.g. posting the government repair orders in a conspicuous place if the building when received; making available a copy of the government repair orders at the management office for inspection by the owners) ; and
- b) Before the resolution concerned is put to vote (e.g. attaching a copy of the government repair orders to the notice of meeting at which the tender is to be approved),

So as to facilitate the MC members/ owners in understanding and making a well informed decision on the scope of the procurement.

- 15. A tender shall be in writing and be sealed and deposited in a strong double locked box marked “Tender-Box(投標箱)” provided for that purpose only and such box shall be securely located in a prominent place in the building. The two keys of the tender-box are to be separately kept by the chairman, secretary or treasurer.
- 16. Where it is impracticable or difficult to comply with the requirement under paragraph 15 above, the OC may, by a resolution passed at a general meeting of the OC, accept tenders handed in or sent by post to the registered office of the OC or to a specific venue as resolved at a general meeting. The tenders shall be properly acknowledged and kept safely.
- 17. All tenders shall be opened at the same time in the presence of at least three members of the MC who shall countersign and date each of the tenders.
- 18. Notwithstanding the requirements set out in this section, where any procurement of supplies, goods and services by an OC is conducted under any Rehabilitation Schemes operated by the Urban Renewal Authority (URA) the OC should comply with all relevant rules, guidelines and / or requirements relating to the conduct of the tender exercise adopted in such service/ scheme instead.
- 19. For procurement of supplies, goods and services whose value does not exceed the sum stipulated in section 20A(2)(b) of the BMO, all tenders received shall be submitted to the MC for decision on acceptance at a meeting of the MC.

20. After approving the award of consultancy agreement/ works contract, MCs are advised to notify all tenderers, property owners and occupants in writing of the tender result.
21. The MC shall permit the Authority, the tenants' representative, an owner, a registered mortgagee or any other person authorised in writing by an owner or a registered mortgagee to inspect all tender documents, copies of contracts, accounts and invoices and any other documents in the possession of the OC and relating to a procurement of supplies, goods and services at any reasonable charge, supply copies of the relevant documents.
22. The documents referred to in paragraph 21 shall contain sufficient information to enable the person doing inspection to calculate the financial liability (including any future financial liability) of the OC at the time of inspection.

Reference Questions for Works Consultant Interview

Information and Background of Works Consultant

- What profession does the authorised person/registered inspector hold (such as architects/engineers/surveyors)?
- Is the authorised person/registered inspector the director/person in charge/staff member of the works consultant?
- With regard to the works consultant's financial status, are there any debts or considerable overdrafts? Has it balanced income and expenditure in the past three years?
- Are there any proper work quality management measures in place? Does the works consultant hold valid and recognised certificates of quality management systems?
- Has the authorised person/registered inspector been penalised (such as condemnation, fine or suspension of licence) for professional misconduct by a disciplinary board panel formed under the *Buildings Ordinance*?
- Has the authorised person/registered inspector been penalised by any relevant professional institute or registration committee?
- Has the works consultant purchased a policy of professional liability insurance? What scope does the policy cover?
- Has the works consultant been, or is it currently being involved in any litigations arising out of the provision of works consultancy services?
- Are the authorised person/registered inspector and responsible personnel serving in other works consultancy firms/works contractors?

Service Pricing and Contract Management

- If the consultancy service fees are deemed unreasonably low or high with respect to factors such as the number of professionals provided for the works items and their working hours, the interviewer may request for a detailed elaboration.
- Will the whole or part of the works consultancy services be subcontracted?
- What professional tasks and services are covered by the consultancy fees? Is supervision included? What are the arrangements of site supervision during work?
- What are the terms for the fees and project termination?

Works Related Matters

- Inquire about the recommended solutions for the building's actual rehabilitation needs.
- Inquire about the proficiency of the works consultant in handling building rehabilitation orders (e.g. Statutory Notice on Mandatory Building Inspection or Fire Safety Direction).

Specific Issues and Other Questions

- How to avoid delay or unfinished works?
- How will the works consultant assist in handling unauthorised building works (UBW) at common parts (e.g. façade/rooftop) of the building?
- How will the works consultant assist in handling owners' refusal to allow the contractor to replace common facilities in their flats (e.g. drainage pipes)?

Anti-Corruption Information (Building Rehabilitation Workflow – Step 2)

Stage	Risk of corruption and malpractices	Tips of preventing corruption
Receiving and Opening Tenders	<ul style="list-style-type: none"> - No requirement for tenderers to submit tenders in sealed envelopes, and tenders received by hand by the consultant or MC/staff member may expose the tenders to risk of leakage or tampering - Accepting a late tender, with the risk that the other tenderers' bids may have been leaked to the latecomer 	<p>When receiving and opening tenders, OCs/MCs are advised to:</p> <ul style="list-style-type: none"> - use a double-locked tender box with keys separately held by different persons, such as the MC Chairman and the treasurer; - keep the tender box in a prominent and secure place in the building until the opening time; - in the tender invitation, advise tenderers to deposit the tenders directly into the tender box, and require any staff/MC member to deposit any tenders received by post or other means into the tender box immediately; - assign an opening team comprising representatives of property owners or MC (preferably at least 3 MC Members), consultant and property management company to open the tenders immediately after the submission deadline; - require members of the tender opening team to countersign and date each of the tenders received and keep the duplicate copies of the tenders for checking in the future, if available, or keep a record of the tenders (including the tenderer and his bid) received if duplicate copies are not available; - reject late tenders received after the tender submission deadline and return them unopened to the tenderers concerned; - keep tenders under lock before tender evaluation.

Stage	Risk of corruption and malpractices	Tips of preventing corruption
Conducting Tender Negotiation (Optional)	<ul style="list-style-type: none"> - Only negotiating with a particular consultant/contractor who is not the lowest bidder or best tenderer - Negotiating with all or a number of tenderers at the same time, rendering the previous tender exercise meaningless, and running the risk of unfair leakage of tender information to a particular tenderer for corrupt purpose 	<p>To minimise the risks of corruption and malpractices, OCs/MCs are advised to :</p> <ul style="list-style-type: none"> - avoid conducting tender negotiation ; <p>If it is decided to conduct tender negotiation to gain a price reduction, OCs/MCs are advised to :</p> <ul style="list-style-type: none"> - seek the OC's endorsement of the tender evaluation result, with the tenderers ranked, and approval for the plan to conduct tender negotiation ; - conduct tender negotiation only with the tenderer with the highest ranking (where there are practical difficulties or genuine needs, OC/MC may conduct tender negotiation with no more than three tenderers that are within very close range in terms of their bids) ; - assign a negotiation team which may comprise representatives from property owners, MC and the property management company (if any) to conduct the tender negotiation ; - require all members of the negotiation team to declare whether or not they have any conflict of interest arising from their relationship with the tenderer concerned ; - lay down the negotiation guidelines, including : <ul style="list-style-type: none"> ▪ prohibiting disclosure of other tenderers' bids ▪ prohibiting any change of tender requirements and evaluation criteria to favour a particular tenderer ▪ documenting the negotiation and the results ▪ requiring the tenderer(s) to submit the "best and final" offer in writing after negotiation, following the standard requirements on receipt and opening of tenders

Code of Practice for Works Consultant

The works consultant must provide consultancy services in compliance with the code of professional ethics/conduct and relevant laws stipulated by individual professional institutes and registration boards, as well as this Code of Practice.

Bidding

1. The works consultant shall verify that the qualified building professionals appointed (e.g. authorised persons/registered inspectors/registered structural engineers) are its direct employees /staff members;
2. The works consultant shall sign the probity and ethical commitment clauses, anti-collusion clauses and ‘Non-Collusion Clauses and Non-Collusive Tendering Certificate’; it shall undertake to refrain from acting against the *Competition Ordinance* (Cap. 619) and *Prevention of Bribery Ordinance* (Cap. 201);
3. The works consultant shall allocate reasonable human resources with regard to the consultancy service scope, where the relevant service fees must reasonably reflect the cost and profit involved;
4. The works consultant shall clearly set out any charges not included in the consultancy service quotes (if any);
5. The works consultant shall not offer any value-added or gratuitous services not included in the tender, in particular those fall outside the scope of works consultancy (such as legal services for cost recovery actions against owners);
6. The works consultant shall clearly define the level of involvement of the qualified building professionals and other technicians in charge.

Preliminary Preparation

1. The works consultant shall provide and perform works consultancy services in strict compliance with the tender and contract terms;
2. The works consultant shall appoint personnel possessing relevant works experience and professional qualifications to provide services in their field of expertise and handle services concerning technical matters;
3. The works consultant shall submit relevant information of responsible personnel (e.g. building professionals/project managers), including identities, qualifications, biographies and contact information together with the tender;
4. The works consultant shall provide the employer with emergency contact numbers of the responsible personnel during the service period;
5. The works consultant shall not initiate personnel changes without written notices or explanations;

6. The works consultant shall not terminate the works consultancy service contract awarded without reasons;
7. The works consultant shall not charge the employer any hidden or excessive fees (any charges for extra services must be set out in the contract);
8. The works consultant shall formulate appropriate internal guidelines to ensure the professional and ethical conduct of its staff;
9. The works consultant shall draw up an tentative works schedule with task arrangements and workflow clearly laid down;
10. The works consultant shall give the best effort to complete all tasks in various service phase in accordance with the agreed schedule;
11. The works consultant shall actively participate in regular meetings with the employer to follow up on the works progress;
12. The works consultant shall reply and follow up on the employer's enquiries or instructions within a reasonable timeframe;
13. The works consultant shall procure or keep in force a policy of professional liability insurance during the service provision period;
14. The works consultant shall formulate a detailed site supervision plan before the commencement of works;
15. In the case where the building has joined any subsidy or incentive schemes administered by government departments or public/private organisations, the works consultant shall fully comply with relevant regulations.

Building Inspection

1. The works consultant shall conduct building inspection using a practical or feasible method (such as visual inspection, infrared detection and CCTV survey of underground drains, etc.);
2. The works consultant shall provide detailed analysis of the building's current condition and defects with explanations of their possible causes instead of simple photos and brief descriptions only. Where necessary, sketches or floor plans can be attached as supplementary information;
3. The works consultant shall not propose unnecessary rehabilitation plans and solutions to the employer without valid reasons;
4. The works consultant shall provide appropriate and feasible rehabilitation or enhancement solution for each issue or defect found in the building;
5. Where possible, the works consultant shall provide the employer with the estimated number of works items and unit cost estimates.

Works Contractor Tendering

Pre-Tendering

1. The works consultant shall not neglect the employer's expectations or requirements on the quality, results and budgeting of the rehabilitation project;
2. The works consultant shall not selected inappropriate materials or those with an unusually high specification, nor shall it formulate works specifications with an unusually high standard;
3. In the case where a pre-qualification of tenderers is recommended, the works consultant shall provide valid reasons for to be tabled for resolution at an owners' meeting;
4. The works consultant shall avoid setting unnecessary or unreasonably high threshold for tender submission without valid reasons
5. Before receipt of tenders, the works consultant shall formulate tender assessment criteria to be tabled for resolution at an owners' meeting;
6. The works consultant shall avoid recommending the employer to charge the tenderers any 'administrative fee';
7. The works consultant shall not mention or disclose works consultant' names and identities in any form;
8. The works consultant shall assist the employer in handling relevant enquiries during tender submission period within a reasonable timeframe in a professional and fair manner;
9. The works consultant shall recommend the employer to use the sample documents prepared by professional institutes at present or the Building Rehabilitation Platform in the future wherever possible, with appropriate amendments made in accordance with individual works and the building's actual needs;
10. The works consultant shall make declaration of interest to the employer in case of any existing or potential conflicts of interest found in the returned tenders;
11. The works consultant shall not give rise to any unfairness during the tender submission by provide any information (particularly quotes provided by tenderers) to any third parties.

Post-Tendering

1. The works consultant shall not modify the tender assessment criteria after tendering;
2. The works consultant shall access each tender received in accordance with the predefined criteria, including detailed analysis of breakdowns instead of simple bid comparisons (refer to Section 2.4 for details);

3. The recommendation of shortlisted tenderers and proposals must include reasons for their selection;
4. The works consultant shall assist the employer in drafting interview questions and workflow in advance (e.g., to dispatch invitation to interview in a reasonable timeframe; to set a uniform duration for each interview, say 30 to 45 minutes; and to request written explanations from tenderers failing to attend the interview);
5. The works consultant shall assist the employer in obtaining all necessary information and clarifications of any ambiguities in the received tenders from tenderers;
6. The works consultant shall offer detailed elucidation and highlights of the tender analysis report before the relevant owners' meeting;
7. The works consultant shall assist the employer with relevant paperwork during the owners' meeting for the selection of works items and contractor; and to answer owners' questions the rehabilitation project;
8. The works consultant shall assist the employer in drafting the works contract after a tenderer is selected. The drafted contract must not include additional contents or terms or delete any content or terms from tender documents without the prior approval of the employer.

Works Supervision

1. The works consultant shall formulate an appropriate site supervision scheme specifying the frequency of site inspection during works and the qualification and background of the inspectors. Regular site patrols must be conducted in accordance with the supervision scheme to ensure the works progress and quality comply with contractual requirements, with appropriate instructions given to the contractor on the spot when necessary;
2. The works consultant shall review and verify the adequacy and comprehensiveness of the documents submitted on contract terms, e.g. organisational chart of workers, works schedule and procedure arrangements;
3. The works consultant shall schedule regular meetings with the contractor and the employer to follow up on the progress of works, solutions of technical issues and complaints from owners and residents, etc.;
4. The works consultant shall provide professional advice on the necessity and feasibility of additional works items suggested by the works contractor and assess whether the quotes are reasonable; it is imperative to discuss with the employer on potential decline in quality or increase in costs caused by the modification of works and obtain the employer's approval before giving relevant instructions to the contractor;

5. The works consultant shall not modify any works or material specifications prescribed in the tender documents without valid reasons. In the case where modifications are necessary, the works consultant shall give lucid explanations to the owners and obtain their approval;
6. The works consultant shall actively follow up on complaints of owners and residents about the works within a reasonable timeframe; and shall develop an appropriate mechanism to facilitate the collection of owners' opinions about the works;
7. The works consultant shall assist the employer in handling interim payment applications and any claims made by the contractor;
8. The works consultant shall keep the works related documents and information in proper condition;
9. The works consultant shall conduct acceptance inspection upon completion of the works in compliance with contractual requirements and specifications; and shall advise the employer on the acceptance of each completed works item in terms of quality standard;
10. The works consultant shall certify substantial completion of works and prepare a schedule of defects (if applicable) for rectification by the contractor during the defects liability period. The certificate of final completion should be issued within a reasonable timeframe after the acceptance inspection. Such action should not be postponed until the defects liability period prescribed in the contract has expired.

Works Completion Stage

1. The works consultant shall monitor the progress and quality of defect rectifications and issue certificate of final completion before the defects liability period ends;
2. The works consultant shall arrange timely acceptance inspection after the contractor has reported completion of works; it shall certify works completion and prepare a schedule of defects (if applicable) for the contractor to follow up;
3. The works consultant shall liaise with relevant government departments on the completion of works stipulated in statutory orders/notices, including preparation and submission of reports/certificates of works completion (if applicable);
4. The works consultant shall conduct regular building inspections and monitor the progress of rectification works during the defects liability period;
5. The works consultant shall reply and follow up on any complaints forwarded by the employer from owners about the works.



Sample/ Form/ Template

Step 2

Sample 1 – Probity and Anti-collusion Clauses in Tender Documents

Sample 2 – Ethical Commitment Clauses in Consultancy Agreement

Sample 3 – Model Non-Collusion Clauses and Non-Collusive Tendering Certificate

Sample 4 – Tender Advertisement(EOI)

Sample 5 – Tender Advertisement (Tender)

Probity and Anti-collusion Clauses in Tender Documents

To : _____ [Name of IO]

To whom may concern :

[Name and address of Building/ Estate]

We _____ , address _____
and _____¹ , _____¹
[Name of tenderer] [Address of tenderer]
[Name of AP] [No. of registration certificate]

_____ refer to [my/our]¹ tender for the above Consultancy Agreement

We confirm that, before sign this letter, other than the Excepted Communications referred to in the last paragraph of this letter, and until have been notified by the Employer of the outcome of the tender exercise, we have not

- communicated to any person other than the Employer the amount of the tender price or any part thereof ;
- fixed the amount of the tender price or any part thereof by arrangement with any person ;
- made any arrangement with any person as to whether [I/we]¹ or that other person will or will not submit a tender; and
- otherwise colluded with any person in any manner whatsoever in the tendering process.

We confirm that, before sign this letter, other than the Excepted Communications referred to in the last paragraph of this letter, and until have been notified by the Employer of the outcome of the tender exercise, [I/we]¹ will not

- communicate to any person other than the Employer the amount of the tender price or any part thereof ;
- fix the amount of the tender price or any part thereof by arrangement with any person ;
- make any arrangement with any person as to whether [I/we]¹ or that other person will or will not submit a tender; and
- otherwise collude with any person in any manner whatsoever in the tendering process.

In this letter, the expression “Excepted Communications” means we communications in strict confidence with own insurers or brokers to obtain an insurance quotation for computation of tender price; and our sub-consultants/consultants or sub-contractors to solicit their assistance in preparation of tender submission.

(representative of tenderer)²

(Signature of AP)

(Date)

(No. of Registration Certificate)

(Date of registration)

(Date)

1. Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, this part in square brackets should be expanded to include the respective names and addresses of such persons or as the case may be companies.
2. Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, all such persons or as the case may be companies must sign. The signatory for each of such persons or companies shall be a person authorized to sign the Consultancy Agreement/Contract on behalf of that person or as the case may be company.

Ethical Commitment Clauses**Confidentiality**

- (A) Except as necessary for the performance of the Services the Consultant shall not (except with the prior written consent or as instructed by the Employer) disclose the terms and conditions of this Agreement or any report, document, specification, drawing, plan, software, data or other particulars furnished by or on behalf of the Employer in connection therewith, or any such or similar information generated or produced by the Consultant pursuant to this Agreement, to any person other than a person employed or engaged by the Consultant in carrying out this Assignment, an agent of the Consultant, any approved sub-consultant or the Consultant' accountants, insurers and legal advisers.
- (B) Any disclosure to any person, agent, sub-consultant, accountant, insurer, legal adviser permitted under sub-clause (A) of this clause shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purposes of this Agreement
- (C) The Consultant shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that their directors, employees, agents, sub-consultants, accountants, insurers and legal advisers as mentioned in sub-clause (A) are aware of and shall comply with the confidentiality and non-disclosure provisions contained in this Agreement. If required by the Employer, the Consultant undertake to procure for and on behalf of the Employer a confidentiality agreement in a form to be prescribed by the Employer from any director, employee, agent, sub-consultant, accountant, insurer and legal adviser to whom any confidential information is to be disclosed
- (D) The Consultant shall not without the prior written consent of the Employer publish, either alone or in conjunction with any other person, in any newspaper, magazine, periodical or through any electronic medium, any article, photograph or illustration relating to this Agreement.
- (E) The Consultant shall indemnify and keep indemnified the Employer against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Employer may suffer, sustain or incur, whether direct or consequential arising out of or in connection with any breach by the Consultant or their directors, employees, agents, sub-consultants, accountants, insurers or legal advisers of this clause.
- (F) The provision of this clause shall survive the termination of this Agreement (however occasioned) and shall continue in full force and effect notwithstanding such termination.

Prevention of Bribery

(G) The Consultant shall prohibit their directors, employees, agents and sub-consultants who are involved in this Agreement from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap 201). The Consultant shall also caution their directors, employees, agents and sub-consultants against soliciting or accepting any excessive hospitality, entertainment or inducements which would impair their impartiality in relation to the Assignment. The Consultant shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that their directors, employees, agents and sub-consultants are aware of the aforesaid prohibition and will not solicit or accept any advantages, excessive hospitality, etc. when conducting business in connection with this Agreement.

Declaration of Interest

(H) The Consultant shall require their employees, agents and sub-consultants who are involved in this Agreement to declare in writing to the Consultant any conflict or potential conflict between their personal/financial interests and their duties in connection with this Agreement. In the event that such conflict or potential conflict is disclosed in a declaration, the Consultant shall forthwith take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict or potential conflict so disclosed.

(I) The Consultant shall prohibit their employees who are involved in this Agreement from engaging in any works or employment other than in the performance of this Agreement, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Agreement. The Consultant shall require their agents and sub-consultants to impose similar restriction on their employees by way of a contractual provision.

(J) The Consultant shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that their employees, agents and sub-consultants who are involved in this Agreement are aware of the provisions under the aforesaid sub-clauses (H) and (I).

Declaration of Ethical Commitment

(K) The Consultant shall submit a signed declaration in a form (see Annex 2(b) - Appendix) prescribed or approved by the Employer to confirm compliance with the provisions in aforesaid sub-clauses (A), (B), (C), (D), (E), (F), (G), (H), (I) and (J) on confidentiality, prevention of bribery and declaration of interest. If the Consultant fail to submit the declaration as required, the Employer shall be entitled to withhold payment until such declaration is submitted and the Consultant shall not be entitled to interest in that period. To demonstrate compliance with the aforesaid sub-clauses (A), (B), (C), (D), (E), (F), (G), (H), (I) and (J) on confidentiality, prevention of bribery and declaration of interest, the consultant and their sub-consultants employed for the performance of duties under this Agreement are required to deposit with the Employer a code of conduct issued to their staff.

Model Non-Collusion Clauses and Non-Collusive Tendering Certificate



USER GUIDE TO PROCURERS

Why do we need competition?

In a free market economy, businesses compete with each other by offering the best range of goods and services at the best prices to consumers. A competitive market leads to better prices, products and choices for everyone. Competition can also drive efficiency and innovation, and lead businesses to meet consumer demands by providing the right product at the right price and quality.

The Competition Ordinance (the “Ordinance”) was enacted to promote competition and prohibit anti-competitive practices by businesses. Cartel conduct, which includes market sharing, bid-rigging, price fixing and output restriction, is generally regarded as a particularly harmful form of anti-competitive conduct which raises prices while reducing choices and innovation – harming consumers, businesses and the economy as a whole.

Bid rigging and market sharing

Bid-rigging generally involves two or more undertakings agreeing that they will not compete with one another in tenders for particular projects. It may take the form of an agreement, arrangement, understanding, promise or commitment, whether express or implied, written or oral, and whether or not enforceable or intended to be enforceable by legal proceedings.

Bid rigging can also involve other forms of anti-competitive collusive conduct, such as market sharing and price fixing. For example, competitors may have agreed to allocate their tenders as part of the market sharing agreement. In view of the rising public concerns over anti-competitive collusive conduct in Hong Kong, the Competition Commission (the “Commission”) has taken steps to provide guidance on how to detect and prevent them.

The Commission's relevant publications

The Commission has published a number of brochures and educational videos in relation to anti-competitive collusive conduct. These include a "Fighting Bid-rigging" brochure which outlines common types of bid-rigging and guidance on what to do should bid-rigging be suspected; and a "Getting the most from your tender" brochure which is designed to assist procurers in ensuring open and effective competition by preventing and detecting possible bid-rigging cartels; and a "Combat Market Sharing" brochure which outlines key concepts of market sharing with hypothetical examples. The abovementioned brochures as well as educational videos on bid rigging and market sharing are available on the Commission's website. They provide useful guidance to procurers in tender context.

Non-collusion clauses and non-collusive tendering certificate

As stated in the "Getting the most from your tender" brochure, procurers may consider including non-collusion clauses and a non-collusive tendering certificate in tender documents to alert tenderers to the potential concerns and consequences of bid-rigging. Procurers may also want to be alert to other forms of cartel conduct, such as agreements between competitors to fix prices, share markets or restrict output.

Non-collusion clauses may be included in invitations to tender. Such clauses should generally:

- (a) Require the bid be prepared without any anti-competitive collusive conduct; and
- (b) Note the consequences of engaging in bid-rigging or other anti-competitive conduct, in particular that such conduct contravenes the Ordinance and potentially attracts enforcement action by the Commission. The clause may also empower the procuring organisation to invalidate the submitted bid and may provide for the recovery of damages or other redress.

Non-collusion clauses in invitations to tender may require tenderers to sign a non-collusive tendering certificate as part of their tender submission. This certificate acts as written confirmation from the tenderer that the bid was developed independently. The tenderer may be required to certify that they understand the consequences of non-compliance and the certificate may contain other undertakings.

In addition to the above, procurers may also consider including non-collusion clauses in formal contracts entered into with the successful tenderer. These can provide for specific redress (such as termination of the contract) where it is subsequently discovered that the tenderer engaged in bid-rigging or other forms of anti-competitive collusive conduct during the tender process.

Use of the model clauses and certificate

Different businesses may want to set different requirements in their tender documents and there is no standard non-collusion wording. Nevertheless, the Commission understands that businesses may benefit from having recourse to reference material in formulating such wording in their tender documents. Therefore, the Commission has provided, in Appendices 1 and 2, model non-collusion clauses comprising model non-collusion wording for incorporation in invitations to tender, guidance on non-collusion clauses in formal contracts as well as a model non-collusive tendering certificate to members of the public for reference.

Features of the model non-collusion clauses include:

- (a) A clear statement that anti-competitive collusive conduct contravenes the Ordinance;
- (b) Warranties from tenderers stating that they have not colluded with each other in preparing the bids;
- (c) An express right of the procuring organisation to be informed about subcontracting arrangements¹; and
- (d) An express right of the procuring organisation to provide information related to the tender and the tenderer to the Commission.

1. Transparency in relation to sub-contracting arrangements may help the detection of bid-rigging. This is because sub-contracting is sometimes used to implement a bid-rigging arrangement (e.g. a bidder may agree to lose a tender on the understanding that another bidder (intended to be the winning bidder) will sub-contract to it).

The model non-collusion clauses are intended as general references only and may not be appropriate for all tenders or all sectors. Procurers may consider requiring other undertakings to be made in their non-collusion clauses, for example a requirement that tenderers agree to provide information regarding their shareholding structure and/or ultimate controlling entities if requested by the procuring organisation. This would help to ensure greater understanding of the identity of tenderers.

For the avoidance of doubt, the Commission makes no express or implied warranties of accuracy, fitness for use, or enforceability of the model non-collusion clauses and the certificate in relation to any specific tender. Parties should seek independent legal advice if they have any doubts regarding their rights or responsibilities.

If in any case the procuring organisations suspect that their tenders have been subject to bid-rigging or other anti-competitive conduct, they should report this to the Commission immediately.

More information

To learn more about the Competition Ordinance and the Competition Commission's work, please visit our website www.compcomm.hk.

APPENDIX 1

MODEL NON-COLLUSION CLAUSES

This document should be used in conjunction with the User Guide to Procurers.

Users are reminded that the appropriate wording to be used to address bid-rigging will depend on the specific project and tender, and that the wording set out below is intended to act as a general reference only.

Model non-collusion wording in invitation to tender

The following is an example of wording that may be included in an invitation to tender:

“The tenderer must ensure that the bid is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person (except as provided in paragraph 3 of the Non-collusive Tendering Certificate referred to below), including regarding price, bid submission procedure or any terms of the bid. In the event of any breach of this clause by any tenderer, the (procuring organisation) reserves the right to invalidate the bid submitted by that tenderer and seek damages.

Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Cap.619). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.

Upon tender submission, the tenderer shall submit to the (procuring organisation) a Non-collusive Tendering Certificate (in the form set out at Schedule [•] to this [invitation to tender]) duly signed by an authorized person on the tenderer’s behalf.”

Guidance on non-collusion clauses in formal contracts

In addition to including wording to address bid-rigging and other anti-competitive collusive conduct in the invitation to tender and requiring the submission of a non-collusive tendering certificate, procurers should consider including clauses in their formal agreements with successful tenderers that provide contractual protections in the event that it is discovered that the tender process was subject to collusion. Such contract clauses may include:

- (a) Wording to state that the formal agreements are entered into in reliance of the statements made by the tenderer in the non-collusive tendering certificate and conditional upon the effectiveness and veracity of the certificate;
- (b) The right for the procuring organisation to terminate the contract with the successful tenderer and recover damages where it is discovered that the tender process was subject to collusion; and
- (c) Exceptions to any confidentiality undertakings that allow the procuring organisation to report and provide documents and information regarding the anti-competitive collusive conduct to the Commission (and other authorities as relevant).

APPENDIX 2

MODEL NON-COLLUSIVE TENDERING CERTIFICATE

This document should be used in conjunction with the User Guide to Procurers.

Users are reminded that the appropriate wording to be used to address bid-rigging will depend on the specific project and tender, and that the wording set out below is intended to act as a general reference only.

This certificate should be signed by a person who is authorized to sign the relevant Contract on behalf of the tenderer. Where the bid is submitted jointly by two or more parties (e.g. multiple persons or companies acting in a joint venture), all such parties should sign the certificate.

To: (Name of the procuring organisation)

Dear Sir/ Madam,

Non-Collusive Tendering Certificate for [Contract No. ()] (the "Contract")

1. We, (name(s) of the tenderer(s)) of (address(es) of the tenderer(s)) refer to the tender for the Contract (the "Tender") and our bid in relation to the Tender.

Non-collusion

2. We represent and warrant that in relation to the Tender:
 - (a) Our bid was developed genuinely, independently and made with the intention to accept the Contract if awarded;

-
- (b) Our bid was not prepared with any agreement, arrangement, communication, understanding, promise or undertaking with any person (including any other tenderer or competitor) regarding:
- i) prices;
 - ii) methods, factors or formulas used to calculate prices;
 - iii) an intention or decision to submit, or not submit, a bid;
 - iv) an intention or decision to withdraw a bid;
 - v) the submission of a bid that does not conform with the requirements of the tender;
 - vi) the quality, quantity, specifications or delivery particulars of the products or services to which this tender relates; and
 - vii) the terms of the bid,

and we undertake that we will not, prior to the award of the Contract, enter into or engage in any of the foregoing.

3. Paragraph 2(b) of this certificate shall not apply to agreements, arrangements, communications, understandings, promises or undertakings with:
- (a) the (procuring organisation);
 - (b) a joint venture partner, where joint venture arrangements relevant to the bid exist and which are notified to the (procuring organisation);
 - (c) consultants or sub-contractors, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular consultancy arrangement or sub-contract;
 - (d) professional advisers, provided that the communications are held in strict confidence and limited to the information required for the adviser to render their professional advice in relation to the Tender;
 - (e) insurers or brokers for the purpose of obtaining an insurance quote, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular insurance arrangement; and

-
- (f) banks for the purpose of obtaining financing for the Contract, provided that the communications are held in strict confidence and limited to the information required to facilitate that financing.

Disclosure of subcontracting

4. We understand that we are required to disclose all intended sub-contracting arrangements relating to the Tender to the (procuring organisation), including those which are entered into after the Contract is awarded. We warrant that we have duly disclosed and will continue to disclose such arrangements to the (procuring organisation).

Consequences of breach or non-compliance

5. We understand that in the event of any breach or non-compliance with any warranties or undertakings in this certificate, the (procuring organisation) may, at its discretion, invalidate our bid, exclude us in future tenders, pursue damages or other forms of redress from us (including but not limited to damages for delay, costs and expenses of re-tendering and other costs incurred), and/or (in the event that we are awarded the Contract) terminate the Contract.
6. Under the Competition Ordinance, bid-rigging is serious anti-competitive conduct. We understand that the (procuring organisation) may, at its discretion, report all suspected instances of bid-rigging to the Competition Commission (the "Commission") and provide the Commission with any relevant information, including but not limited to information on our bid and our personal information.

Signed for and on behalf of the (tenderer)¹:

Signature:

Name:

Position:

Date:

1. Additional signature blocks will need to be used where the tenderer is comprised of multiple parties.



Address : 19/F, South Island Place
8 Wong Chuk Hang Road, Wong Chuk Hang, HONG KONG
(The Competition Commission office address has been changed effective from
24 June 2019)

Telephone : +852 3462 2118

Fax : +852 2522 4997

Email : enquiry@compcomm.hk

Disclaimer

The information provided in this pamphlet is for general reference only. It does not provide an exhaustive guide to the application of the Competition Ordinance (Ordinance). For a complete and definitive statement of the law, refer to the Ordinance itself. The Competition Commission (Commission) makes no express or implied warranties of accuracy or fitness for a particular purpose or use with respect to the above information. The above suggestions will not affect the functions and powers conferred on the Commission under the Ordinance.

© December 2017

Competition Commission (Hong Kong)

(Name of IO/Building)

**Invitation of Express of Interest for Consultancy Service of
Building Rehabilitation Project**

(Name of IO/Building) This is to invite works consultant (including* AP/RI/other professionals [please specify])to express interest in undertaking the above consultancy for the project. Interested consultants please show your intention in writing from the date ____/____/____/(dd/mm/yyyy) to ____/____(dd/mm), not later ____ a.m./p.m.(Time) on ____/____/____(dd/mm/yyyy) submitted the EOI to the collection box which set in _____.

If you have any enquiry , please contact_____(Mr/ Mrs/ Miss) with _____(Telephone no.)(from____to____ (Time)).

_____(Name of IO/Building)

____/____/____/(dd/mm/yyyy)

* Delete if not applicable

(Name of IO/Building)

Invitation of Tender for Consultancy Service of
Building Rehabilitation Project

(Name of IO/Building) This is to invite works consultant (including*AP/RI/other professionals [please specify]) to submit the completed Form of Tender with Schedule of Rates in undertaking the above consultancy for the project. Interested consultants please request for one set of tender with appendixes from the date ____/____/____/(dd/mm/yyyy) to ____/____(dd/mm)by personal from the _____(address) , and submit the tender with relevant documents to Tender box which set in _____(address) from the date ____/____/____/(dd/mm/yyyy) to ____/____(dd/mm), not later. _____a.m./p.m (Time) on ____/____/____(dd/mm/yyyy). IO shall not necessarily accept the lowest or any Tender.

Site visit: Please wait at _____(Time) on ____/____/____(dd/mm/yyyy). (if applicable)

_____(Name of IO/Building)

_____/_____/_____(dd/mm/yyyy)

* Delete if not applicable



Conduct Building Inspection and Prepare Tender Documents

Step 3 Milestones :

3.1 Building Inspection by Works Consultant



- Understand the reasons for building inspection
- Understand the scope of inspection
- Understand the methods of inspection
- Understand common rehabilitation work items



3.2 Preparation of Tender Documents by Works Consultant



- Draft building rehabilitation proposal
- Prepare tender documents
- Understand the types of tender documents and their differences

3.3 Provision of Cost Estimates by Works Consultant



- Understand work cost estimates



Step 3: Conduct Building Inspection and Prepare Tender Documents

Section 3.1 Building Inspection by Works Consultant



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

3.1.1 Why Building Inspection?¹

It is common to conduct building inspection before rehabilitation works. The purposes are:

- To understand the current condition and extent of dilapidation of the building;
- To identify the reasons of dilapidation and hence, their suitable solutions;
- To assess the scope of works, prepare cost estimates, prioritise work items and draft works schedule for **owners'** approval; and
- To draw up schedule of work items to be included in tender documents to facilitate tendering and the preparation of work estimates.

Building rehabilitation begins with a thorough gauge into the current condition of the building to grasp the extent of issues, which contributes to the systematic planning and implementation of the project.

3.1.2 Scope of Inspection

Before the scope and items of rehabilitation work are identified, the work consultant appointed by **owners/OCs** shall conduct a thorough inspection of the building to understand its overall condition and rehabilitation needs, followed by reporting the identified defects and cases which fail to fulfil prescribed legal requirements to the **owners/OCs**. The scope of inspection includes:

¹ Source: *Building Maintenance Guidebook* published by the **Buildings Department (BD)**.

Review of Information Relevant to Building Maintenance

- Review of statutory orders/notices/advisory letters/written warnings (if any) issued by government departments demanding rectification works to be done to common parts to clarify relevant statutory requirements², and liaison with government departments to discuss about the rehabilitation and enhancement works;
- Comparative review of the building's actual existing layout against its occupation permit, approved building plans and layout plans of water supply and drainage, as well as records of addition or alteration works obtained from the **BD**, other relevant government departments, the **owners** or through any other means;
- Review of provisions pertaining to building maintenance in the Deed of Mutual Covenant (DMC) of the subject building;
- Questionnaire survey on opinions of residents on the building condition.

Site Inspection

- Thorough inspection covering all architectural components, public equipment and facilities at common areas of the building. If signs of defect are identified on public facilities installed in private units, the works consultant should conduct, where possible, a site inspection in the relevant units subsequent to an assessment by a qualified person, and should document any areas where first-hand inspection is not possible;
- Thorough assessment of building condition based on the information collected to identify existing defects, dilapidations, disrepairs and potential issues. Any existing installations or structures found to have contravened any regulations or ordinances in force should also be specified;
- Documentation of damages in words and images during inspection, detailed analysis on the current condition and issues of the building, and their causes and solutions clearly stated. Where necessary, sketches and floor plans can also be attached as supplementary information;

² One example is that for buildings where mandatory building inspection notices have been received, the **BD** has prescribed lucid codes of practice and relevant regulations with which the owners and inspectors concerned shall comply.

- Detailed report on the general scope of damages, their remedial solutions, as well as suitable materials and methods of works for the **owners/OCs'** review;
- Building rehabilitation proposal with work items categorised into 'Mandatory' (e.g. repair works prescribed by statutory orders) or 'Recommended' group in accordance with their urgency, and prioritisation of items within each category;
- The inspection report and rehabilitation proposal are to be verified and signed by prescribed building professional (e.g. authorised person/registered inspector).

 **Useful Tip**

'Breadth' and 'depth' are essential in building inspection!

'Breadth' means the scope of inspection, which should extend beyond the damaged parts to cover architectural components, public equipment and facilities at all common areas (including those installed within private units or covered). Owners whose units are in need for maintenance, especially those on the top floor where wall seepage or spalling plaster in ceilings may arise from improper waterproofing on the rooftop, should consult the works consultant for advices with reference to the condition of the units.

'Depth' means the level of detail of the inspection. As opposed to a brief snapshot which runs a mere few pages, a detailed inspection report should include a considerable amount of photographs, detailed description of the defective parts, thorough analysis on the condition and issues of the building, their causes and solutions, as well as supplementary sketches or floor plans.

3.1.3 Methods of Inspection

There are, in general, two types of inspection method: destructive and non-destructive approaches. The most common ones include:

- Visual inspection³ ;
- Infrared thermography⁴ ;
- Hammer tapping⁵ ;
- Other non-destructive approaches, such as:
 - Cover meter survey;
 - Crack width measurement;
 - Rebound hammer test.

In the case where a more thorough investigation into the concrete than a mere visual inspection is necessary, **owners/OCs** may conduct tests on carbonation, as well as chloride and cement contents, etc. for assessment. **Owners/OCs** concerned should discuss with their works consultant on details of the above methods or other feasible methods suggested by professionals.

³ Direct inspection with the eye or non-professional equipment such as cameras.

⁴ Infrared thermography is a long-range inspection method that measures their surface temperature differences of external walls with equipment to gauge the location and scope of spalling concrete or rendering. While the results and accuracy may be affected by factors such as weather, orientation of the wall and the angle of the scanner illumination, etc., infrared thermography is an efficient method for external wall survey without scaffolding. Survey data can be used as preliminary reference for cost estimates of relevant repair works in the future.

⁵ Hammer tapping is an external wall inspection method that knocks on different parts of the wall surface with a plastic hammer to identify loose concrete or rendering by listening to the ‘hollow’ sound from cavities. The test can be conducted on scaffolding as part of an on-site survey, followed by marking the defective parts with spray and photographing them for record.

Section 3.2 Preparation of Tender Documents by Works Consultant



3.2.1 Drafting Building Rehabilitation Proposal

The category and scope of maintenance works required for different buildings are dependent on factors such as the age, location and extent of regular maintenance of the subject building. Since building rehabilitation works generally involve more complex technical issues, the works consultant shall suggest a scope of necessary rehabilitation works in accordance with the inspection/survey results and regulations of relevant statutory orders/notices for **owners/OCs**' consideration and approval.

Presentation of Inspection Report by Works Consultant and Discussion of Proposed Solutions with Owners

As mentioned, **owners/OCs** should have basic knowledge of the reasons for and purposes of building rehabilitation, as well as common building defects when planning a project. With detailed explanation of the completed building inspection given by the works consultant, **owners/OCs** should gain a more thorough understanding of the current condition of their building, which in turn helps them identify areas for further clarification from the consultant prior to an informed analysis of the necessity of the recommended work items, especially those of high costs, to protect their own interest.

It is the responsibility of the works consultant to, in accordance with the results of building inspection, list the extent of damages and necessary repair works concerning building safety and hygiene facilities, and provide the **owners/OCs** with various feasible solutions for building rehabilitation and enhancement, with reminders of necessary prompt actions against immediate dangers (if any). The consultant shall also provide detailed cost estimates for each recommended work item and solution with their basis and assumptions clearly stated for **owners/OCs**' reference. When presenting the inspection report, the consultant shall remind the **owners/OCs** of uncertainties that may arise in the works concerned. For work procedures to be carried out in corporation with individual **owners** (e.g. those concern common facilities installed in private units), prior notifications should be made to the **OC** and the owners concerned as early as possible for timely planning and coordination.



Useful Tip

Is it necessary to carry out all the proposed work items?

No. While the **owners/OCs** will receive ‘Mandatory’ and ‘Recommended’ work items proposed by the works consultant based on various factors (such as the urgency of the item or requirements of statutory orders/notices), it is advisable for them to make decision on the final scope according to their actual needs.

If the **owners** are unable to agree on a one-off implementation of all proposed items due to financial hardship or funding issues, the **owners/OCs** should resolve on items concerning public safety or those which may pose hazards to the public (e.g. repair of damaged structures).



To learn about the common rehabilitation work items – Please refer to [Appendix I](#)

3.2.2 Preparing Tender Documents

Each building has its own scope of and approach to rehabilitation works, which vary according to its setting and conditions as well as the requirements of the **owners/OCs**. A professional works consultant should prepare tender documents that reflect, as much as possible, the requirements of the **owners/OCs** by taking into account the actual situation of the building concerned and the rehabilitation/enhancement solutions approved by the **owners/OCs**. Adapting past documents for new tender exercise may result in overcomplicated and confusing terms and the lack of appropriate and fair standards, which may undermine the chance for the **owners** to receive competitive tenders.

When preparing tender documents, the works consultant should:

- Gain a thorough understanding of the **owners/OCs**’ expectations or requirements on the quality, results and budgeting of the works;

- Reflect the **owners/OCs'** expectations and requirements in the tender documents through selection of suitable materials and specifications of the works;
- Discuss and identify the scope of works to be covered in the tender documents with the **owners/OCs**;
- Suggest appropriate tender submission methods for **owners/OCs'** consideration and if necessary, assist in the pre-qualification of tenderers (which is not mandatory and therefore, should be a discreet decision to make lest that over-stringent criteria should discourage interested tenderers);
- Set reasonable prerequisites and screening criteria, whose scope is limited to fundamental and essential matters, before bid solicitation. Do not establish unnecessary or unreasonably high threshold for tender submission, nor is it advisable to charge tenderers any 'administrative fee'⁶ lest that interested tenderers should be discouraged and the number of tenders returned lowered;
- Publish bid solicitation notices in newspapers in the name of the subject building/OC only with no mention of the name and identities of the works consultant;
- Handle enquiries during tender submission period in a professional and fair manner;
- Indicate written correspondence as the only means of communication between tenderers and the works consultant on enquiries during the tender submission period, with copies of such correspondences sent to the **owners/OCs**;
- Except under special circumstances, it is advisable to use sample document prepared by **professional institutes**⁷ at present or Building Rehabilitation Platform in the future, with appropriate amendments made in accordance with individual works.

⁶ 'Administrative fee' refers to the specific/non-refundable fee charged to interested tenderers by the **owners/OCs** during tender submission.

⁷ Professional institutes include **The Hong Kong Institute of Architects, The Hong Kong Institute of Surveyors, The Hong Kong Institute of Engineers** and **Royal Institution of Chartered Surveyors**, etc

 **Useful Tip****Points to note when preparing tender documents**

- Define the scope of works and specifications of materials clearly to avoid potential rigging or the need for mammoth funds induced by amendments to the project after its commencement;
- Avoid unnecessary or expensive work items;
- Unless with valid reasons, avoid the use of brand name/restrictive specification for materials to avoid favouring individual suppliers;
- Avoid unfair terms such as:
 - unreasonable indemnification for breach of contract;
 - continuation of works in the case of default on wages by the employer (i.e. the **owners/OCs**).

 **Useful Tip****Formulate ‘contract validity period’**

When preparing tender documents, the works consultant and **owners/OCs** should also discuss and determine the reasonable timeframe for works contractors to complete the required work items. An unreasonably short contract validity period may push up the bids, causing disputes or discouraging able and responsible tenderers.

If the works consultant is unsure about the reasonable timeframe for work completion, especially when certain areas of expertise are involved, it is advisable to list multiple deadlines in the tender documents for interested tenderers to offer respective bids. In so doing, the works consultant and the **owners/OCs** can weigh the extra cost against the benefit of cutting short the inconvenience caused to residents.

 **For more information about anti-corruption – Please refer to [Appendix II](#)**

3.2.3 Types of Tender Documents

The works consultant should advise the **owners/OCs** on the appropriate type of tender document/contract for the procurement of works contractors in accordance with the scope and categories of the rehabilitation works concerned. The **owners/OCs** should seek to understand the differences among various types of tender documents/contracts beforehand to facilitate the management of works contracts in the future.

General Types of Tender Documents/Contracts

Type	Characteristic
Lump-sum tender documents/contract with firm Bills of Quantities ⁸	The works contractor undertakes to complete the project for a 'lump-sum' price ⁹ , as per the architectural drawings and the Bills of Quantities (BQ) listing the number of tasks involved in each work item. The BQ is prepared by the consultancy firm in accordance with the drawings; while the 'lump-sum' price refers to the sum of cost of items listed in the BQ.
Lump-sum tender document/contract with drawings and specification ¹⁰	This type of tender document/contract will include detailed drawings and specification but not BQ. The tenderers shall undertake to complete the project for a lump-sum price as per the drawings and specifications.
Re-measurement tender document/contract containing Bills of Provisional Quantities ¹¹	The Bills of Provisional Quantities (BPQ) contain estimates prepared by consultancy firm before bid solicitation based on the drawings in the tender document/contract. The cost of each work item is calculated by multiplying the unit rate by the estimated quantity, while the total tender price is the total cost of all items. Upon completion of the works, the consultancy firm will re-measure the actual completed quantities to determine the total payment due in accordance with the unit bid rates.
Measurement contract containing a Schedule of Rates ¹²	The Schedule of Rates included in this type of tender documents/contract only set out the pricing units of measure without specifying their quantities. As the extent of the works is unknown at tender stage, the successful tenderer is expected to perform as instructed within the contract validity period, which will be measured upon completion and paid for in accordance with the quoted unit rates.

In general building rehabilitation projects, lump-sum tender documents/contracts are more commonly used.

⁸ Lump sum contract with firm Bills of Quantities.




⁹ Except work items which are subject to measurement on site.

¹⁰ Lump sum contract with drawings and specification.

¹¹ Re-measurement contract containing Bills of Provisional Quantities.

¹² Measurement contract containing a Schedule of Rates.

Content of General Tender Documents/Contract

- Scope of works
- List of work items
- Form of tender completed and signed by the tenderer
- Specifications and standards of general and specific materials
- Contract terms and conditions:
 - Payment criteria and arrangements (e.g. payments are only to be made after the works consultant's confirmation of the completion of all or part of the works)
 - Insurance
 - Defects liability period
 - Default penalty
 - Delay of works
 - Material warranty
 - Performance bond
 - Terms for contract termination
 - Terms for dispute resolution
 - Probity and Anti-Collusion Clauses ([Sample 1](#)) 
 - Ethical Commitment Clauses ¹³ ([Sample 2](#)) 
 - Non-Collusion Clauses and Non-Collusive Tendering Certificate (Please refer to [Step 2 – Sample 3](#)) 
- Price list of work items
- Tender acceptance criteria
- Architectural drawings, such as floor plans, elevations, cross sections and detail drawings
- Orders issued by government departments (if any)

¹³ **Owners/OCs** are recommended to include the relevant terms in the tender documents for tenderers' information in advance. They should as well ask the successful tenderer to confirm and sign the 'Declaration on Compliance with Ethical Commitment Requirements' as part of the work contract awarded.

Section 3.3 Provision of Cost Estimates by Works Consultant

The works consultant shall provide detailed cost estimates based on recommended or **owners/OCs**-ratified work items and solutions to facilitate their understanding of the scope and budget of intended works and offer reference for future analysis of tenders.

The cost estimates provided by works consultant will cover the unit quantity and unit price of each work item, with references and assumptions made therein indicated. These references and assumptions may vary depending on the works specifications and building condition. On the other hand, interested tenderers may consider factors such as risks, difficulties in execution, and tendering strategies, etc. Therefore, the **owners/OCs** should not consider cost estimates as a benchmark for bids returned.



Useful Tip

Owners/OCs may grasp the cost estimates in the following contexts:

- Comprehensiveness of the cost estimates (e.g. item breakdowns/units/quantities);
- Basis of the cost estimates (e.g. historical/government/market data)
- Use and significance of the cost estimates (e.g. for comparisons and analysis of submitted quotes in future).

While comprehensive data on work cost is currently unavailable in the market, **owners/OCs** may seek reference from the total work costs for the buildings participating in the incentive schemes under the **URA** on the Building Rehabilitation Platform website. However, **owners/OCs** should take note of the fact that these are actual costs of works without any adjustments based on factors such as inflation. The Building Rehabilitation Platform is actively discussing with stakeholders on how to provide further data for **owners/OCs**' reference.



Useful Tip

Owners/OCs should:

- Ask the works consultant to provide estimates of the quantity and unit cost of individual work items for reference;
- Wherever possible, appoint independent consultant (e.g. quantity surveyor) to provide additional cost estimates/recommendations on proposed work items for reference.

3.3.1 What is a cost estimate for the works?

A cost estimate for the works generally includes:

- (i) Basic budget of the works;
- (ii) Contingency/provision for the works; and
- (iii) Buffer for the risk of price adjustment.

(i) **Basic budget of the works**

The basic budget of the works refers to the funds earmarked by the contractor for the following:

- Salaries of workers;
- Cost of machines/tools;
- Cost of work materials;
- other work-related expenses (e.g. transportation cost for materials and responsible personnel, etc.);
- Bearable risk cost and profit.

When preparing work cost estimates, the works consultant may refer to:

- Works of similar nature and their unit rates;
- Nature, uniqueness, difficulty and complexity of the works;
- Indexes of tender rates as well as salary and material costs;
- Estimation of necessary manpower;
- Salary levels of relevant personnel.

(ii) **Contingency/ provision for the works**

In view of unforeseeable circumstances that may arise after the commencement of works, the works consultant may reserve contingency/provision based on the condition of the building. Unforeseeable circumstances include:

- Greater amount/Larger scope of works than anticipated (e.g. the extent of damages to concrete structure/rendering of external walls is more severe than anticipated);
- Uncertain scope of work at the stage of building inspection (e.g. works concerning underground pipes);
- Additional works due to variations or compliance with requirements of relevant regulations/government departments;
- Additional repair or enhancement works proposed/requested by the **owners/OCs** during the works.

(iii) **Buffer for the risk of price adjustment**

The planning of rehabilitation works is a time-consuming task, which may take several months to more than a year from the provision of cost estimates to the return of bids and to the commencement of works. Due to the unpredictable short-term and long-term fluctuation in salaries and work-related costs, the works consultant and contractors may prepare cost estimates or tender that reflect the risk of price adjustment.



Useful Tip

How long does it take to engage a works contractor?

According to the **URA**'s statistics (see below), the average time it takes from appointing works consultant to completing investigation/inspection and to submitting relevant report and rehabilitation proposal is 5 to 6 months. **Owners/OCs** may make assessment in accordance with the number of units in their building or other circumstances.

Total Number of Units in the Building	Average Time Required (Months)
20 or fewer	5
21-50	5
51-100	6
101-200	6
201 or more	6

References

1. *Building Maintenance Toolkit* published by the **Independent Commission Against Corruption (ICAC)**
2. *Building Maintenance Guidebook* published by the **BD**
3. *'Smart Tender' Building Rehabilitation Facilitating Services DIY Tool-Kits* published by the **URA**

Appendix – Relevant Information

Step 3

Appendix I – Common Rehabilitation Work Items

Appendix II – Anti-Corruption Information (Building Rehabilitation Workflow – Step 3)

Common Rehabilitation Works Items

- Repair works for concrete structure/rendering, e.g.
 - Hammer tapping tests to identify defective concrete structures (slabs, beams, columns and walls) as well as the scopes of loose external wall rendering and tiles
 - Repair works for defective concrete structures and loose external wall rendering and tiles
- Repainting/renovation works for external wall paints;
- Repainting/renovation works for interior wall paints;
- Rooftop waterproof works;
- Repair/replacement works for windows;
- Repair/replacement works for public water tanks;
- Repair/replacement works for water pipes;
- Repair/replacement works for public drainage system, such as sewers, waste pipes and rainwater pipes (including underground pipes);
- Repair/enhancement/addition works for fire safety provisions, such as fire rated doors, fixed light windows and enclosures to non-emergency service facilities;
- Repair/enhancement/addition works for fire service installations and facilities, such as fire hoses, fire sprinkler systems and emergency lighting system;
- Repair/replacement works for electric system;
- Repair/replacement works for lifts;
- Repair/replacement/addition works for security system;
- Repair/replacement works for metal or wooden parts, such as rooftop balustrades and banisters;
- Repair/enhancement works for barrier-free access;
- Removal of unauthorised building works (UBW);
- Repair/enhancement works for slopes/retaining walls outside the building.

Anti-Corruption Information (Building Rehabilitation Workflow – Step 3)

Stage	Risk of corruption and malpractices	Tips of preventing corruption
<p>Drawing up Scope of Maintenance Works</p>	<ul style="list-style-type: none"> - Lack of clarity in specifications of maintenance works and materials, resulting in manipulation in the selection process and subsequent variations at higher costs - Ordering of unnecessary and costly maintenance works - Use of brand name/restrictive specifications for repair materials to favour the material supplier 	<ul style="list-style-type: none"> - require the consultant to clearly distinguish the essential/mandatory works items (e.g. works items required under the statutory notices/orders) from the non-essential works items (e.g. improvement works); - require the consultant to provide estimated quantities and costs for individual works items to facilitate determination of the scope of maintenance works to be carried out, budgeting and tender comparison; - where practicable, engage an independent consultant, e.g. a quantity surveyor, to provide cost estimate/advice on the proposed works items for reference; - require the consultant to avoid using brand name repair material specifications or restrictive specifications that only a single brand of repair material can meet, unless there are justifiable grounds; - require the consultant to specify the finalised scope of maintenance works in the tender document/works contract in detail to avoid disputes in the future.



Sample/ Form/ Template

Step 3

Sample 1 – Probity and Anti-collusion Clauses in Tender Documents (applicable to works contractor)

Sample 2 – Ethical Commitment Clauses in Works Contract

(applicable to works contractor)

Probity and Anti-collusion Clauses in Tender Documents

Offering Gratuities

- (A) The tenderer shall not, and shall procure that his [employees and agents/employees, agents and sub-contractors] shall not, offer, solicit or accept an advantage as defined in the Prevention of Bribery Ordinance (Cap 201) in connection with the tendering and execution of this [Consultancy Agreement/Contract].
- (B) Failure to so procure or any act of offering, soliciting or accepting advantage referred to in (A) above committed by the tenderer or by an employee, agent or [sub-consultant/subcontractor] of the tenderer shall, without affecting the tenderer's liability for such failure and act, result in his tender being invalidated

Anti-collusion

(C) _____ (as known as Employer as below) until have been notified by the Employer of the outcome of the tender exercise, tenderer will not:

[Name of IO]

- communicated to any person other than the Employer the amount of the tender price or any part thereof ;
- fix the amount of the tender price or any part thereof by arrangement with any person ;
- make any arrangement with any person as to whether or that other person will or will not submit a tender ; or
- otherwise colluded with any person in any manner whatsoever in the tendering process.

Any breach of or non-compliance with this sub-clause by the tenderer shall, without affecting the tenderer's liability for such breach or non-compliance, invalidate his tender.

- (D) Sub-clause (C) of this Clause shall have no application to the tenderer's communications in strict confidence with his own insurers or brokers to obtain an insurance quotation for computation of tender price and [sub-consultants/consultants or sub-contractors] to solicit their assistance in preparation of tender submission .
- (E) The tenderer shall submit with his tender a duly signed and witnessed letter in the form set out in the below. The signatory to the letter shall be a person authorized to sign the Contract on the tenderer's behalf.

(applicable to works contractor)

Confirmation Letter

Date : _____

To : _____
[Name of IO]

To whom may concern :

Building Rehabilitation Project of _____
[Name and address of Building / Estate]

[I/We]¹ , _____ , _____
(Name of tenderer) (Address of tenderer)²

_____ We confirm that, before sign this letter, other than the Excepted Communications referred to in the last paragraph of this letter, and until have been notified by the Employer of the outcome of the tender exercise, we have not

- _____ (as known as Employer as below) communicated to any person other than the Employer the amount of the tender price or any part thereof ;
[Name of IO]
- fixed the amount of the tender price or any part thereof by arrangement with any person ;
- made any arrangement with any person as to whether [I/we]¹ or that other person will or will not submit a tender ; and
- otherwise colluded with any person in any manner whatsoever in the tendering process.

After sign this letter, and until have been notified by the Employer of the outcome of the tender exercise, [I/we]¹ will not :

- communicate to any person other than the Employer the amount of the tender price or any part thereof ;
- fix the amount of the tender price or any part thereof by arrangement with any person ;
- make any arrangement with any person as to whether [I/we] or that other person will or will not submit a tender ; or
- otherwise collude with any person in any manner whatsoever in the tendering process.

In this letter, the expression “Excepted Communications” means we communications in strict confidence with own insurers or brokers to obtain an insurance quotation for computation of tender price; and our sub-consultants/consultants or sub-contractors to solicit their assistance in preparation of tender submission.

(Name and signature of representative)³

1. delete if not applicable
2. Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, this part in square brackets should be expanded to include the respective names and addresses of such persons or as the case may be companies.
3. Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, all such persons or as the case may be companies must sign. The signatory for each of such persons or companies shall be a person authorized to sign the Consultancy Agreement/Contract on behalf of that person or as the case may be company.

(applicable to works contractor)

Ethical Commitment Clauses in Works Contract

Information not to be Divulged

- (A) The Contractor shall not use or divulge, except for the purpose of the Contract, any information provided by _____ [name of the Owners' Corporation] (hereafter referred to as the Employer) in the Contract or in any subsequent correspondence or documentation. Any disclosure to any person or agent or sub-contractor for the purpose of the Contract shall be in strict confidence and shall be on a “need to know” basis and extend only so far as may be necessary for the purpose of this Contract. The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that information is not divulged for purposes other than that of this Contract by such person, agent or sub-contractor. The Contractor shall indemnify and keep indemnified the Employer against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Employer may suffer, sustain or incur, whether direct or consequential, arising out of or in connection with any breach of the aforesaid non-disclosure provision by the Contractor or his employees, agents or sub-contractors.

Prevention of Bribery

- (B) The Contractor shall prohibit his employees, agents, and sub-contractors who are involved in this Contract from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap 201) when conducting business in connection with this Contract.

Declaration of Interest

- (C) The Contractor shall require his employees, agents and sub-contractors who are involved in this Contract to declare in writing to the Contractor any conflict or potential conflict between their personal/financial interests and their duties in connection with this Contract. In the event that such conflict or potential conflict is disclosed in a declaration, the Contractor shall forthwith take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict or potential conflict so disclosed.
- (D) The Contractor shall prohibit his employees who are involved in this Contract from engaging in any work or employment other than in the performance of this Contract, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract. The Contractor shall also require their subcontractors and agents to impose similar restriction on their employees by way of a contractual provision.
- (E) The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that his employees, agents and subcontractors are aware of the prohibitions in this clause.

Contractor's Declaration

- (F) The Contractor shall also submit a signed declaration in a form (see Annex 2(c) - Appendix) prescribed or approved by the Employer to confirm compliance with the provisions on ethical commitment as stated in the aforesaid sub-clauses (A), (B), (C), (D) and (E). If the Contractor fails to submit the declaration as required, the Employer shall be entitled to withhold payment until such declaration is submitted and the Contractor shall not be entitled to interest. To demonstrate compliance with the aforesaid sub-clauses (A), (B), (C), (D) and (E) on confidentiality, prevention of bribery, and declaration of interest, the contractor and their sub-contractors employed for the performance of duties under this Contract are required to deposit with the Employer a code of conduct issued to their staff.

Ethical Commitment Clauses in Works Contract

Declaration Form

Date : _____

To : _____

[Name of IO]

To whom may concern :

Building Rehabilitation Project of _____

[Name and address of Building/ Estate]

In accordance with the Ethical Commitment clauses of the Contract, we confirm that we have complied with the following provisions and have ensured that our directors, employees, subcontractors, agents are aware of the following provisions:

- (a) Prohibiting our directors, employees, agents and sub-contractors who are involved in this Contract from offering, soliciting or accepting any advantage as defined in section 2 of the Prevention of Bribery Ordinance (Cap 201) when conducting business in connection with this Contract;
- (b) Requiring our directors, employees, agents and sub-contractors who are involved in this Contract to declare in writing to us any conflict or potential conflict between their personal/financial interests and their duties in connection with this Contract. In the event that a conflict or potential conflict is disclosed, we will take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict or potential conflict so disclosed;
- (c) Prohibiting our directors and employees who are involved in this Contract from engaging in any work or employment other than in the performance of this Contract, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract and requiring our sub-contractors to do the same;
- (d) Taking all measures as necessary to protect any confidential/privileged information or data entrusted to us by or on behalf of the Employer from being divulged to a third party other than those allowed in this Contract.

(Company chop and signature) _____

(Name of contractor) _____

(Signature and post of representative) _____

(Date) _____



Engage Works Contractor for the Rehabilitation Project

Step 4 Milestones:

4.1 Convene Meetings to Ratify Tender Documents and Tendering Procedures

- Understand the roles and responsibilities of works contractor
- Understand the types of works contractor and the relevant legal requirements



4.2 Engage Works Contractor in Compliance with *Building Management Ordinance* and *Code of Practice on Procurement of Supplies, Goods and Services*

- Understand the regulations on procurement of works contractor stipulated in *Building Management Ordinance*
- Understand the code of practice on procurement of works contractor in *Building Management Ordinance*
- Understand tendering methods for works contractor procurement

4.3 Open and Analyse Tenders

- Understand risk management/anti-corruption measures for tender analysis
- Understand the key content of tender assessment report

4.4 Interview Works Contractors

- Understand interview arrangement and flow



4.5 Convene Owners' Meetings to Discuss and Resolve on Work Items and Selection of Works Contractors

- Suggested procedures



Step 4: Engage Works Contractor for the Rehabilitation Project

Section 4.1 Convene Meetings to Ratify Tender Documents and Tendering Procedures



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

The procurement of works contractors share similar procedures with that of works consultant. **Owners/OCs** may refer to Step 2 in this Guide for details.

Once the works consultant has drafted the tender documents following a building inspection, the **owners/OCs** can proceed to the procurement of works contractors. While the *Building Management Ordinance* does not stipulate a Management Committee (MC)/owners' meeting to ratify tender documents and tendering procedures, it is advisable to proceed as such where possible. This facilitates:

- transparency of the tendering process;
- the participation of **owners** and legitimacy of the process;
- **owners'** understanding of legal requirements for tendering of works contractors;
- **owners'** understanding of the types, roles and responsibilities of works contractors;
- **owners'** awareness of work items to be tendered beforehand.

4.1.1 What is a Works Contractor?

A works contractor is a party entering into the contract who, other than completing the required aspects of maintenance work in compliance with terms and quality specifications as stipulated in the contract, undertakes to fulfil myriad key roles and responsibilities. A reputable and experienced work contractor is instrumental to the smooth conduct and quality assurance of rehabilitation works.

Roles and Responsibilities

A works contractor is responsible for planning, organising and managing work procedures in accordance with relevant legal, technical and safety requirements. In the case where variations are needed, in terms of either the scope or quantity of works, due to unforeseeable on-site situations, the works contractor must promptly inform the works consultant and **owners/OCs** and follow their work instructions. It is also the works contractor's responsibility to inform, in a timely manner, the works consultant, the **owners/OCs** and relevant government departments in case of emergency issues, so that contingency arrangements and emergency measures can be deployed. If works are to be carried out in the common areas that form part of the access routes of the building's occupants, the works contractor must liaise the **owners** and occupants while keeping these areas unobstructed, tidy and safe.



Useful Tip

What is a sub-contractor?

Depending on the level of expertise and complexity, the works contractor may sublet work items to which the contract relates. In general, there is no contractual relationship between a sub-contractor and the **owners/OCs**. The former is bound by the contract entered between it and the works contractor alone. The works contractor should appoint experienced and skilled workers and sub-contractors to carry out the works under effective site management, including site supervision by a qualified works supervisor, to ensure the quality of works.

The works consultant shall conduct regular site patrols and issue warnings to substandard work contractor. In the case of serious performance issues, the works consultant may propose that the contract be terminated. Therefore, it is advisable to make careful and thought-out selection of works contractor.



To learn about the recommended code of practice for works contractor – Please refer to [Appendix I](#)

4.1.2 Statutory Requirements for Works Contractor

In most cases where a building is to undergo rehabilitation, in particular when a large-scale reconstruction project approved by the **Building Authority** is concerned, it is obligatory to engage a registered works contractor.

Pursuant to the *Buildings Ordinance*, the **Building Authority** keeps the registers of general building contractors, specialist contractors (who are qualified to carry out specialised works in their respective categories) and minor works contractors. The **Building Authority** may only consider the inclusion of a works contractor in the relevant register¹ should it meet the prescribed standards and obtain accreditation from the Registration Committee.

Engage a Suitable Works Contractor

(i) **Registered General Building Contractors**

Registered general building contractors may carry out general building works and street works which do not include any specialised works in their corresponding categories.

(ii) **Registered Specialist Contractors**

Registered specialist contractors may only carry out specialised works in their corresponding categories in the sub-registers in which they have been entered. There are 5 categories of specialised works at present, including:

- Demolition works;
- Foundation works;
- Ground investigation field works;
- Site formation works; and
- Ventilation works.

¹ Please visit the **Buildings Department (BD)** website (<https://www.bd.gov.hk/en/resources/online-tools/registers-search/index.html>) to browse the registers of various types of works contractors and their corresponding scopes of building safety services provided.

(iii) **Registered Minor Works Contractors**

According to Minor Works Control System (MWCS) ², only registered general building contractors or registered minor works contractors who are qualified to carry out minor works in their corresponding categories registered in respect of classes, types and items may be appointed to carry out minor works as a prescribed registered contractor.

(iv) **Other Registered or Licensed Works Contractors**

Water supply, electricity and fire service installation works shall be carried out by licensed or registered works contractors regulated by the **Water Supplies Department (WSD)** ³, **Fire Services Department (FSD)** ⁴ and **Electrical and Mechanical Services Department (EMSD)** ⁵ respectively. In the case where such works are to be carried out in parallel with the building rehabilitation project, works contractor and their sub-contractor(s) must also hold valid licenses.



Useful Tip

Minor Works Control System (MWCS)

The MWCS entered in to force on 31st December 2010 to facilitate **owners** and occupants to carry out safe and sound minor works in private buildings lawfully through simplified procedures, with a view to enhancing the quality of minor works and building safety in Hong Kong.

Under the *Building (Minor Works) Regulation*, **owners** with the need to carry out the 126 work items categorised into 3 classes specified therein may do without the need to obtain plan approval and written consent from **BD**. Any person who arranges for the works to be carried out, be him an **owner**/occupant or the appointed agent (such as interior design firm), shall appoint a prescribed building professional and/or prescribed registered contractor.



What is a prescribed building professional? – Please refer to Section 2.1.1



What is a prescribed registered contractor? Please refer to Section 4.1.2

² Please visit the **BD** website (<https://www.bd.gov.hk/en/building-works/minor-works/index.html>) for details of the MWCS and relevant forms.

³ Please visit the **WSD** website (<https://www.wsd.gov.hk/en/plumbing-engineering/licensed-plumbers/index.html>) for the requirements concerning repair works for inside service.

⁴ Please visit the **FSD** website (https://www.hkfsd.gov.hk/eng/fire_protection/cert/) for information about fire service installation contractors.

⁵ Please visit the **EMSD** website (<https://www.emsd.gov.hk/en/home/index.html>) to learn about electricity safety and lift maintenance.

Section 4.2 Engage Works Contractor in Compliance with *Building Management Ordinance* and *Code of Practice on Procurement of Supplies, Goods and Services*

4.2.1 Procurement Regulations and Code of Practice Prescribed by the *Building Management Ordinance*⁶

Often inherently expensive, building rehabilitation projects are prone to claims, disputes and even legal proceedings. A qualified works contractor with rich experience and a high degree of integrity, selected under the guidance of an independent works consultant, helps facilitate the smooth completion of works.

The **owners/OCs** shall proceed with the tendering of works contractor in the similar way as the procurement of works consultant under the guidance of the appointed works consultant and in compliance with the regulations of the *Building Management Ordinance*⁷ and the *Code of Practice*⁸.

⇒ **Details concerning the procurement of works contractor – Please refer to Section 2.2.1**

4.2.2 How to Engage a Works Contractor

Use Appropriate Tender Documents

As mentioned in Step 3, a professional works consultant should prepare tender documents in accordance with the actual situation of individual building, as well as the rehabilitation and enhancement solutions approved by the **owners/OCs** concerned.

⇒ **For different types of work tender documents/contracts and their contents – Please refer to Section 3.2.3**

⁶ The *Code of Practice on Procurement of Supplies, Goods and Services* (Revised Version) under the *Building Management Ordinance* (Cap. 344) has come into force on 1st September 2018. For details, please refer to Home Affairs Department (HAD) website https://www.buildingmgt.gov.hk/en/legislation/3_3.htm.

⁷ For details, please refer to Sections 20A and 44 of the *Building Management Ordinance*.

⁸ Issued by the Secretary for Home Affairs in compliance with Section 44(1)(a) of the *Building Management Ordinance* (Cap. 344).

 **Useful Tip**



Sample Document Published by Professional Institutes

The Building Rehabilitation Platform is actively discussing the production of works contractor tender and contract templates with industry stakeholders, with a view to standardising tender and contract terms under a fair mechanism for **owners/OCs**' use in the future.

At present, **owners/OCs** may use *Standard Form of Contract for Maintenance and Renovation Works* and *Standard Form of Contract for Minor Works* published by **The Hong Kong Institute of Surveyors**.

To purchase these documents, please visit **The Hong Kong Institute of Surveyors** website (https://www.hkis.org.hk/en/publication_sales.html) for details.

4.2.3 Common Tendering Methods for Works Contract

Method	Note
Open tendering	<ul style="list-style-type: none"> • Invite works contractors to submit expressions of interest/tenders through public channels such as newspaper advertisement ( Template 1 /  Template 2) • In the case where pre-qualification (non-mandatory) process is in place, the relevant criteria must be specified in the open invitation to tender, followed by distribution of tender documents to all eligible interested tenderers.
Selective tendering	<ul style="list-style-type: none"> • A shortlist of works contractors shall drawn up beforehand in compliance with the <i>Building Management Ordinance</i> and the <i>Code of Practice</i>, followed by distribution of tender documents to shortlisted contractors.
Package contract	<ul style="list-style-type: none"> • This refers to one-stop services provided by works contractors or building professionals, including contracts for both the works consultancy services and works to be carried out by works contractor. • However, the lack of independence may prevent the works consultant from achieving objective and impartial evaluations of works contractors' performance. • This is more suitable for works with a high degree of expertise, which requires only a limited level of involvement from the works consultant.



Useful Tip

In addition to compliance with relevant requirements in the *Building Management Ordinance*, **OCs** are also recommended to adopt open tendering to enhance transparency and put interested works contractor to vote in an owners' meeting to strengthen legitimacy. It is advisable to waive all administrative fees lest that interested tenderers should be discouraged and competitiveness undermined.

A fair and open tendering process helps recruit a larger number of competitive bids which, coupled with a better understanding of market trends they bring about, facilitate owners' selection of works contractor.



Useful Tip

'Smart Tender' Building Rehabilitation Facilitating Services

To learn more about building rehabilitation and the market for a fair, impartial and competitive procurement of work contractors, **owners/OCs** may participate in the 'Smart Tender' Building Rehabilitation Facilitating Services administered by the URA.



For details, please refer to [Section 2.2.3](#)



Useful Tip

Best Practice on Building Management

The *Administrative Guidelines on Best Practices on Building Management* was published by the **Home Affairs Department** on 1st January 2019, featuring best practices on building management in various fields, including the formation of **OC**, procurement procedures, owners' meetings and the use of proxy instruments and financial arrangement, etc.

For more information, please visit the following website
https://www.buildingmgt.gov.hk/pdf/Admin_Guidelines_2019_Eng.pdf.

Section 4.3

Open and Analyse Tenders



4.3.1 Open and Assess Tenders

Once the tender submission deadline is due, **owners/OCs** should promptly go through all required and demanded procedures to open all tenders. A fair and thorough tender analysis is then carried out under the guidance of the works consultant to gauge the backgrounds of the tenderers and their past experience in building rehabilitation projects, followed by interviews to understand their work knowledge, proficiency and capacity.

4.3.2 Risk management/Tips for preventing corruption and malpractices when conducting evaluation of tender

When conducting evaluation of tenders of works contract, OCs/MCs are advised to:

To do

- ✓ determine the evaluation criteria, e.g. any essential/mandatory non-price factors, before invite of tender and pass the such evaluation criteria in owners' meeting ;
- ✓ assign a tender assessment panel which may comprise representatives from property owners, MC and the property management company (if any) to assess the tenders ;
- ✓ require all members of the panel to declare whether or not they have any conflict of interest arising from their relationship with the tenderers ;
- ✓ for a high value, complicated project, consider engaging an independent consultant / quantity surveyor for third party advice on the estimated maintenance costs and tender prices for the major works items involved ;
- ✓ to assess the tenders by using the evaluation criteria which set before ;
- ✓ prepare the detailed assessment report in order to help for selection of tenderer.

Avoid

- × change the evaluation criteria after tender opening for misleading the **owners/ OCs** ;
- × Unscrupulous consultant or MC member may favour a contractor in tender evaluation by: making untrue/unfair comments on the performance of other tenderers especially those with lower bids;
- × adding new and irrelevant criteria/ requirements to screen out the lowest bidder ;
- × suggesting to negotiate with a particular tenderer who is not the lowest bidder, giving only this tenderer the chance to revise his bid after tender evaluation; etc.

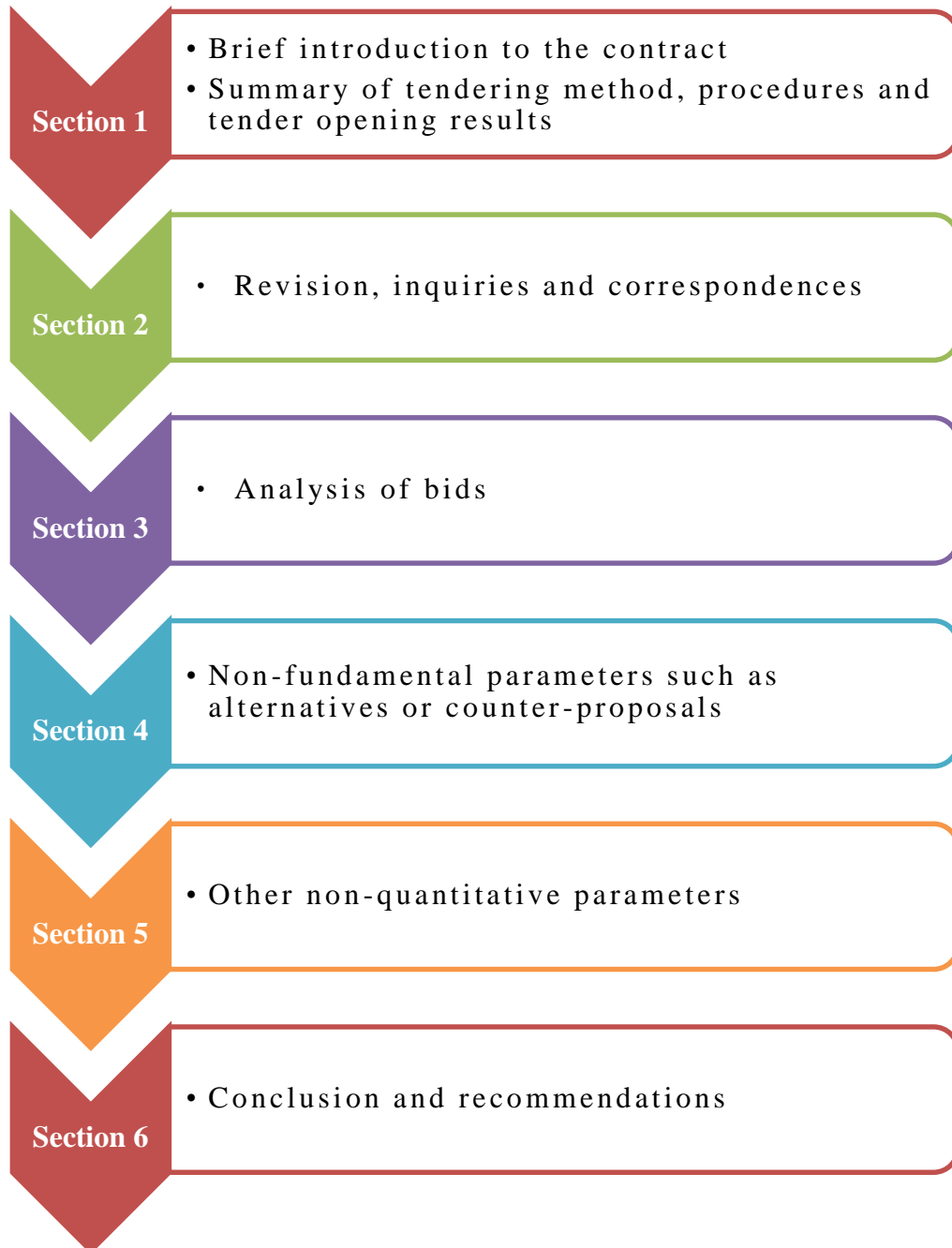


Useful Tip

In general, the successful tenderer should be the lowest bidder among all eligible tenderers/shortlisted tenderers who have met the pre-qualification requirements (if applicable). The works consultant and the **OC** are obliged to communicate the rationale behind the recommendation/non-recommendation of tenderers to all **owners** at an owners' meeting and have it documented.

4.3.3 Key Content of Tender Assessment Report

A comprehensive tender assessment report includes, but not limited to, the following six sections:



 **To learn more about the content in each section of the tender assessment report – Please refer to [Appendix II](#)**

Section 4.4 Interview Works Contractor



In general, the works consultant would table a tender assessment report for **owners/OCs**' deliberation at a meeting where elucidation of the report and objective analysis on tenderers' qualification and capacity for the project are given. The **owners/OCs** may further gauge tenderers' extent of the relevant expertise in the interviews.

4.4.1 Interview Arrangement and Flow

Interviews of works contractor and works consultant share similar arrangement and flow, in that the **owners/OCs** may convene a meeting beforehand to draw up a set of interview questions. A uniform duration should apply to all interviews as a basis of fair comparison. The interviewers should use their best efforts to refrain from permitting any tender modifications during the interview. Meanwhile, in the case where the subject building is a beneficiary of 'Smart Tender' Building Rehabilitation Facilitating Services, the 5 lowest bidders must be shortlisted for interview as prescribed by the scheme.



Please refer to [Section 2.4.2](#)

Interviews help clarify works contractors' expertise and background in the following aspects:

- Possession of statutory qualifications;
- History of legal proceedings;
- Quality/experience/track record of the management personnel;
- Past experience of similar projects and goodwill;
- Company scale and organisational structure;
- Charging methods;
- Work team assigned;
- Knowledge of workflow/requirements;
- Understanding of tender requirements and the works concerned;
- Understanding of the building's condition.

 **Useful Tip****Recommended arrangements**

- Unless with valid reasons, tenderers with relatively low bids should not be excluded from shortlisted candidates for interview;
- Allow sufficient time for interview preparation by sending early invitations to contractors at least 7 days beforehand, and confirm receipt of invitation with the shortlisted contractors;
- Contact contractors who refused or failed to attend the interview directly to learn their reasons;
- Report any confirmed or suspected misconducts or unlawful acts to the **Police Force/Independent Commission Against Corruption (ICAC)/Competition Commission** on any incident related or suspected to be related to improper or unlawful behaviours.

 **Useful Tip**

Any negative opinions, disagreements or dissents against works contractors expressed in the interviews by members of tender assessment task force/**MC** or **owners** should be documented in detail by the **owners/OCs** for other **owners'** reference.



Simulated Scenario

Case 1

An OC, assisted by its works consultant, invited tenders for a building maintenance project through open tendering. Noting that the works contractor who belonged to its syndicate ranked third, the works consultant recommended the OC to reject the lower ranking tenderers, claiming that one of them had poor performance track records (without providing any objective evidence or reference information), and the other had not submitted the company's financial information for assessment of its financial well-being (this was not a requirement in the tender invitation nor evaluation criteria). The OC accepted the works consultant's recommendation without requiring supporting information or justification.

Case 2

An OC invited tenders from works contractors for a building maintenance project through open tendering. After evaluation of the tenders received, instead of awarding the contract to the works contractor with the lowest price, the works consultant strongly recommended the third-ranking contractor for reasons of better quality and track record (without supporting evidence/information), and suggested conducting tender negotiation with this contractor to allow the latter a chance to lower its price.

Can we do much better for the two cases?

4.4.2 Price Negotiation

As mentioned in Step 2, **OCs/MC** should avoid any price negotiation in order to minimise the risk of corruption.



Please refer to [Section 2.4.3](#)



Useful Tip

Owners/ OCs should avoid:

- × Only negotiating with a particular consultant/ contractor who is not the lowest bidder or best tenderer.
- × Negotiating with all or a number of tenderers at the same time, rendering the previous tender exercise meaningless, and running the risk of unfair leakage of tender information to a particular tenderer for corrupt purpose.



To know more about Anti-Corruption Information? – Please refer to [Appendix III](#)

Section 4.5 Convene Owners' Meetings to Discuss and Resolve on Works Items and Selection of Works Contractor

A common situation observed by many **owners/OCs** in the past experience of planning a rehabilitation project is that owners often waited until the meeting for the selection of work contractors to raise questions on the need for the project, the validity of tenderers' pricing strategies or the transparency and impartiality the **OC**, resulting in disputes between **MC** members and **owners** or the **owners** themselves, which impeded the selection of works contractor at the meeting or the award of contract to the successful tenderer. In the worst cases, the entire rehabilitation project might be discarded or suspended.

In this regard, the **OCs** are recommended to consider the inclusion of non-mandatory but relatively feasible procedures in the procurement of works contractor to allow not only transparency and legitimacy in the process, but also sufficient opportunity and time for **owners** to participate in the discussion and assessment of tenders, express their opinions and equip themselves with more relevant information. Examples include setting up **owners'** opinion boxes for the rehabilitation project and archive for **owners** to look up papers and documents concerning the rehabilitation works, which help owners grasp the works process and information, minimise miscommunication and promote smooth selection and procurement of suitable contractors, thereby facilitating the implementation of works.

4.5.1 Recommended Procedures

(i) Before the Owners' Meeting

Before an owners' meeting is called to select works contractor from tenders received, the works consultant shall prepare a detailed tender assessment report.

⇒ **For details, please refer to Section 4.3.3**

Therefore, early dissemination of information on tender assessment among **owners** will help them gain a thorough understanding of the project while allowing sufficient time for questions and opinions to be communicated, thereby eliminating unnecessary disputes in the future.

The OCs may:

- ✓ Place a copy of complete assessment report on received tenders with all necessary details at the property management office or other prominent location for **owners**' consultation and reference;
- ✓ Provide all **owners** with an abstract of the assessment report (say one to two pages) by mailbox drop, post or other feasible way to facilitate their understanding of tenders received before the vote at the owners' meeting⁹;
- ✓ Invite interested **owners** to participate in the interviews of works contractor wherever possible;
- ✓ Organise consultation meetings where appropriate to offer **owners** sufficient opportunity to understand issues concerning the project and express their opinions or concerns for further elucidation;
- ✓ Remind and recommend **owners** to attend the meeting in person via meeting notices and authorisation letters to enhance transparency and legitimacy of the process.

⁹ Owners of buildings enrolled in 'Smart Tender' scheme can visit the download centre for owners on the electronic tendering platform to download documentation concerning building rehabilitation.

(ii) **Owners' Meetings Notices**

The **OCs** may include relevant agendas in the meeting notices, for example:

- ✓ A resolution on the appointment of designated **MC** members to sign contracts with the successful tenderers, and the authorization of representatives of **owners** or property management company to sign the contracts as witnesses to enhance impartiality and prevent unauthorised modifications of contract terms;
- ✓ A resolution on the earliest date for contract signing to ensure sufficient time for **OCs**, works consultant and works contractor to draw up contract terms while preventing unauthorised signing.



Useful Tip

How long does it take to engage a works contractor?

According to the **URA's** statistics (see below), it takes 18-22 months on average from appointing a works consultant to awarding a works contract. **Owners/OCs** may make estimation according to the number of units in their building or other circumstances.

Total Number of Units in the Building	Average Time Required (Months)
20 or fewer	18
21-50	18
51-100	18
101-200	22
201 or more	22

Reference

1. A Guide on Building Management Ordinance (Cap.344) published by Home Affairs Department
2. Building Maintenance Toolkit published by ICAC
3. Building Maintenance Guidebook published by Buildings Department
4. Smart Tender DIY toolkit published by URA

Appendix – Relevant Information

Step 4

Appendix I – Code of Practice for Works Contractor

Appendix II – Key Content of Tender Assessment Report

Appendix III – Anti-Corruption Information (Building Rehabilitation
Workflow – Step 4)

Code of Practice for Work Contractors

(For Reference Only)

1. **Ensure Progress and Quality of Works**

Complete the Works within the Contract's Stipulated Timeframe

The work contractor shall commence and complete the works in compliance with the timeframe stipulated in the contract, where the definition and calculation of normal 'working days' and rainy days should be specified. Without valid explanations or reasons, the work contractor shall not delay the works.

Submit Works Schedule

The work contractor shall submit a works schedule for the work consultant and owners/OCs' approval before commencement of works to formulate relevant progress arrangements.

Report Regularly on Work Progress

The work contractor shall conduct regular meetings with the consultant and the owners/OCs to report on the progress of works; in case of any delays, the work contractor shall amend the works schedule promptly.

Formulate Manpower Allocation Plan

In addition to qualified site supervisors and safety supervisors as stipulated in the contract, the work contractor shall provide sufficient workers in coordination with the progress of the works. In the case where delays arise, the work contractor shall investigate the reasons and deploy additional workers to speed up the progress and alleviate such delays.

Cooperate with Random Inspections Conducted by Work Consultant and Owners/OCs

The work contractor's representative or person in charge on site shall cooperate with and provide assistance to random site inspections conducted by the work consultant and the owners/OCs.

Carry Out Works in Compliance with Contract Requirements/Stipulated Materials and Floor Plans

The work contractor shall carry out works in compliance with contract requirements, including but not limited to relevant specifications, materials to be used and floor plans etc. In case of any modifications, the work contractor shall apply for approval by the work consultant and the owners/OCs before execution.

Follow up on the Schedule of Defects for Rectification During Defects Liability Period

The work contractor shall follow up on the items in the schedule of defects during the defects liability period and complete the rectification works as early as possible to ensure the relevant works' compliance with the requirements and standard stipulated in the contract.

**2. Ensure Proper Provision of Necessary Documentary Proofs
Submit Documents Concerning the Works' Commencement and
Completion on Time**

The work contractor shall submit documents concerning commencement and completion of works to relevant government departments in compliance with statutory requirements, and shall procure a necessary policy of insurance and ensure its validity during the works and the defects liability period.

Keep Work-Related Documents

The work contractor shall keep work-related documents in proper condition, including but not limited to insurance policies, repair records, photos, certificates of origin of the materials, quality assurance certificates of the works and the materials, test reports, purchase and delivery receipts of the materials, etc.

Keep Documentary Record of Concealed Works

The work contractor shall record the execution procedures of concealed works to ensure their completion in compliance with contract requirements, where each procedure should be recorded by relevant orientation photos to facilitate **owners/OCs'** reference in the future.

**Submit Payroll Advices in Accordance with the Works' Completion
Progress**

The work contractor shall submit salary payment applications in accordance with the works' completion progress and submit relevant documentary proofs. The work contractor shall issue invoice to the **owners/OCs** once the application is approved, followed by receipts after the payment is received for the **owners/OCs** to keep record.

**3. Salary Payment Arrangements
Deferring Payments**

The work contractor shall submit documentary proofs on the works' completion progress and shall not delay such progress without valid reasons, or the **owners/OCs** shall consider deferring salary payments until the relevant documentary proofs are submitted by the contractor.

4. Liabilities/Contractual Obligations of the Work Contractor **Ensure the Compliance with Contract Terms**

The work contractor shall carry out the works in compliance with contract requirements, and shall complete such works within the timeframe stipulated therein.

Supervise Execution of Works by Sub-Contractors

The work contractor shall monitor its sub-contractors' compliance with statutory and contract requirements in their work procedures, and shall as well ensure their compliance with the **owners/OCs'** requirements when carrying out the works.

Ensure the Validity of its Licenses

The work contractor shall ensure the validity of its relevant qualified licenses during the course of the works.

Formulate Sign-in Records

The work contractor shall verify the identities of all workers entering the work sites and validity of their licenses to ensure their legitimacy to carry out the works.

Declare its Interests

The work contractor shall declare its interests before submission of tender to confirm its non-disclosure of relevant information such as quotes of works and content of contract etc. to any other persons.

Key Content of Tender Assessment Report

A comprehensive tender assessment report should contain, but not limited to, key information of the following six parts:

Part 1

Brief Introduction to the Contract and Summary of Tendering Method, Procedure and Tender Opening Results

1. A list of the names of all work contractors invited to tender, dates of bid solicitation and tender submission period, number of tenders received, validity periods of the tenders, and names of contractors with written refusal to tender and their reasons (if any);
2. A list of work contractors which have not submitted tenders, but have submitted expressions of interest and received tender documents/accepted the invitation to tender, as well as their reasons (if known);
3. Categorisation of contractors from different sources or bid solicitation methods (such as residents' recommendations or open tendering etc.) with different text labels, symbols or colours;
4. A summary report of pre-qualification criteria for the work contractors (if applicable) or verified results of eligibility (if any), to be attached or added to the assessment report;
5. Any modifications to tender content or limits made by the tenderers;
6. Any miscalculations of bids provided by the tenderers;
7. Any corrections or revisions to submitted tenders made by the tenderers;
8. A list of disqualified work contractors (if any), and specification of all (or the remaining) contractors' compliance with requirements in the tender documents;
9. Verification of each tenderer's compliance with procurement specifications, especially its identity as a qualified work contractor, with specifications of disqualified tenderers with reasons and documentary proofs;
10. A list of all received tenders arranged in the order of bidding prices.

Part 2

Revisions, Enquiries and Correspondences Concerned

The work consultant shall list a summary of content and respective replies of correspondences concerned in chronological order, such as work contractors' refusal to submit tenders, corrections of errors in submitted tenders, verifications of suspected unreasonable unit quotes and other clarifications concerning the tender documents. All such correspondences shall be included in this part or attached to the end of the assessment report. If there are no applicable correspondences whatsoever, the report should be specified with 'no correspondences'.

Part 3

Analysis of Bids in Tenders Received

The work consultant shall make detailed analysis of bids instead of simple comparisons of total bidding prices/breakdowns.

1. The work consultant shall analyse the reasonability of quantities/unit prices/breakdowns in each work item, and may give explanations with reference to the work site environment or other unique factors that may affect the quotes. The work consultant shall specify any tenderers unable to provide quotes of quantities and unit prices as well as the items concerned. For items specified as 'included' or '\$0', the work consultant shall also request the tenderer concerned to provide the actual unit prices for calculation of work adjustments in the future (if any).
2. The work consultant shall compare each tenderer's bid and quoted quantity of work items with its own evaluation as well as the costs/quantities of rehabilitation projects of the same type of buildings in the same district, and specify the reasons in case of serious deviations.
3. The work consultant shall compare all bids received and identify any unreasonable distribution of costs at the works' early or end stage or on individual items, and may draw charts to illustrate the tenderers' cash flow. The work consultant shall also add professional advice to the end of this part to indicate the risks concerning uneven distribution of costs, or verify the reasonable distribution of costs in general.

4. If tentative costs concerning optional items or re-measurement of item quantities etc. are included in the tender documents, the work consultant shall compare the total bids as well as the optional items' total costs in accordance with the OCs' relevant requests (if any), and list the priority order of tenderers under different aspects or provide illustrative charts for further elaboration.
5. In the case where provisional quantities of individual items are listed in the tender documents, the work consultancy firm shall make thorough comparisons of such items' unit prices quoted by different tenderers and their impact on the total cost of the works.

Part 4

Subordinate Parameters such as Alternatives or Counter-Proposals

Any proposals concerning alternative materials or solutions submitted by the tenderers shall only serve as backup options or secondary factors for consideration, and the work consultant shall analyse the reasonability of such proposals in terms of technical and pricing aspects. Based on fair competition principle of tendering, the tenderers shall submit their bids in accordance with the tender documents' original criteria and shall not replace them with alternative proposals, or they will be disqualified. In the case where such alternative proposals constitute material differences with the original tender documents or are considered significant factors by the **owners/OCs**, such proposals should be adopted for procedural amendment in parts 1 to 3 above or in re-tendering to ensure the OCs' fair and sufficient selection of work contractors. The work consultant shall also provide professional advice on alternative proposals concerning unique, professional or uncommon aspects such as material supply or techniques, as well as whether there are sufficient justifications to their adoption.

Part 5

Other Non-Quantitative Parameters

The work consultant shall analyse other non-quantitative parameters or proposals submitted by the tenderers, such as the works' timeframe, works schedule, site management and resources allocation plans, etc. These parameters or proposals shall only serve as secondary factors for consideration, otherwise they should be specified in the tender documents, where each tenderer's compliance with such requirements shall be listed in part 1 above.

Part 6

Conclusion and Recommendations

The work consultant shall conclude the analyses and comparisons made in the above parts and give recommendations on interview/engagement of tenderers. In the case where individual tenderers are not recommended, relevant justification and documentary proofs shall be provided in the report for the **owners/OCs'** reference and open discussion at an owners' meeting.

**Anti-Corruption Information
(Building Rehabilitation Workflow – Step 4)**

Stage	Risk of corruption and malpractices	Tips of preventing corruption
<p>Conducting Tender Negotiation (Optional)</p>	<ul style="list-style-type: none"> - Only negotiating with a particular consultant/ contractor who is not the lowest bidder or best tenderer - Negotiating with all or a number of tenderers at the same time, rendering the previous tender exercise meaningless, and running the risk of unfair leakage of tender information to a particular tenderer for corrupt purpose 	<ul style="list-style-type: none"> - To minimise the risks of corruption and malpractices, OCs/MCs are advised to: <ul style="list-style-type: none"> • avoid conducting tender negotiation; - If it is decided to conduct tender negotiation to gain a price reduction, OCs/MCs are advised to: <ul style="list-style-type: none"> • seek the OC’s endorsement of the tender evaluation result, with the tenderers ranked, and approval for the plan to conduct tender negotiation; • conduct tender negotiation only with the tenderer with the highest ranking (where there are practical difficulties or genuine needs, OC/MC may conduct tender negotiation with no more than three tenderers that are within very close range in terms of their bids); • assign a negotiation team which may comprise representatives from property owners, MC and the property management company (if any) to conduct the tender negotiation; • require all members of the negotiation team to declare whether or not they have any conflict of interest arising from their relationship with the tenderer concerned; - Lay down the negotiation guidelines, including: <ul style="list-style-type: none"> • prohibiting disclosure of other tenderers’ bids • prohibiting any change of tender requirements and evaluation criteria to favour a particular tenderer • documenting the negotiation and the results • requiring the tenderer(s) to submit the “best and final” offer in writing after negotiation, following the standard requirements on receipt and opening of tenders

Source: Building Maintenance Toolkit published by ICAC



Sample/ Form/ Template

Step 4

Sample 1 – Tender Advertisement(EOI)

Sample 2 – Tender Advertisement (Tender)

(Name of IO)

(Address: _____)

Invitation to* Registered General Building Contractor (RGBC)/Registered Minor Works Contractor(RMWC) of Express of Interest(EOI) for Building Rehabilitation Project

You are invited to express interest for the rehabilitation works for our building. Interested *RGBC/ RMWC please submit the following documents and information to the _____ collection _____ box _____ which _____ set _____ in _____ (Address) _____ from _____ the _____ date ____/____/____/(dd/mm/yyyy) to ____/____(dd/mm), not later_____ a.m./p.m.(Time) on ____/____/____(dd/mm/yyyy) Your EOI should also include a photocopy Business Registration Certificate of your company and the certificate of *Registered General Building Contractor/ Registered Minor Works Contractor(RMWC).

If you have any enquiry , please contact_____(Mr/ Mrs/ Miss) with _____(Telephone no.)(from_____to_____ (Time)).

_____(Name of IO/Building)

____/____/____/(dd/mm/yyyy)

* Delete if not applicable

(Name of IO)

(Address: _____)

Tender Invitation for Building Rehabilitation Project

You are invited to submit a tender for the rehabilitation works for our building at _____ [Name and address of building]. The details of the works requirements are as shown in the attached. Interested *Registered General Building Contractor/ Registered Minor Works Contractor(RMWC) please request for one set of tender with appendixes from the date ____/____/____/(dd/mm/yyyy) to ____/____(dd/mm) by personal from the _____(address) , and submit the tender with relevant documents to Tender box which set in _____(address) from the date ____/____/____/(dd/mm/yyyy) to ____/____(dd/mm), not later. ____ a.m./p.m (Time) on ____/____/____(dd/mm/yyyy) ° IO shall not necessarily accept the lowest or any Tender °

If you have any enquiry , please contact _____(Mr/ Mrs/ Miss) with _____(Telephone no.)(from _____to_____ (Time)).

_____ (Name of IO/Building)
_____/_____/_____/_____(dd/mm/yyyy)

* Delete if not applicable



Commence Works and Work Sites Supervision



Step 5 Milestones:

5.1 Preparation for Signing of Contract

- Learn about the major stakeholders in rehabilitation project
- Understand task arrangements before signing of contract and commencement of works



5.2 Manage Contract and Supervise Works after Commencement of Works

- Review progress of works on a regular basis
- Monitor quality of works
- Handle modifications of works
- Understand payment arrangements

Step 5: Commence Works and Supervise Work Sites



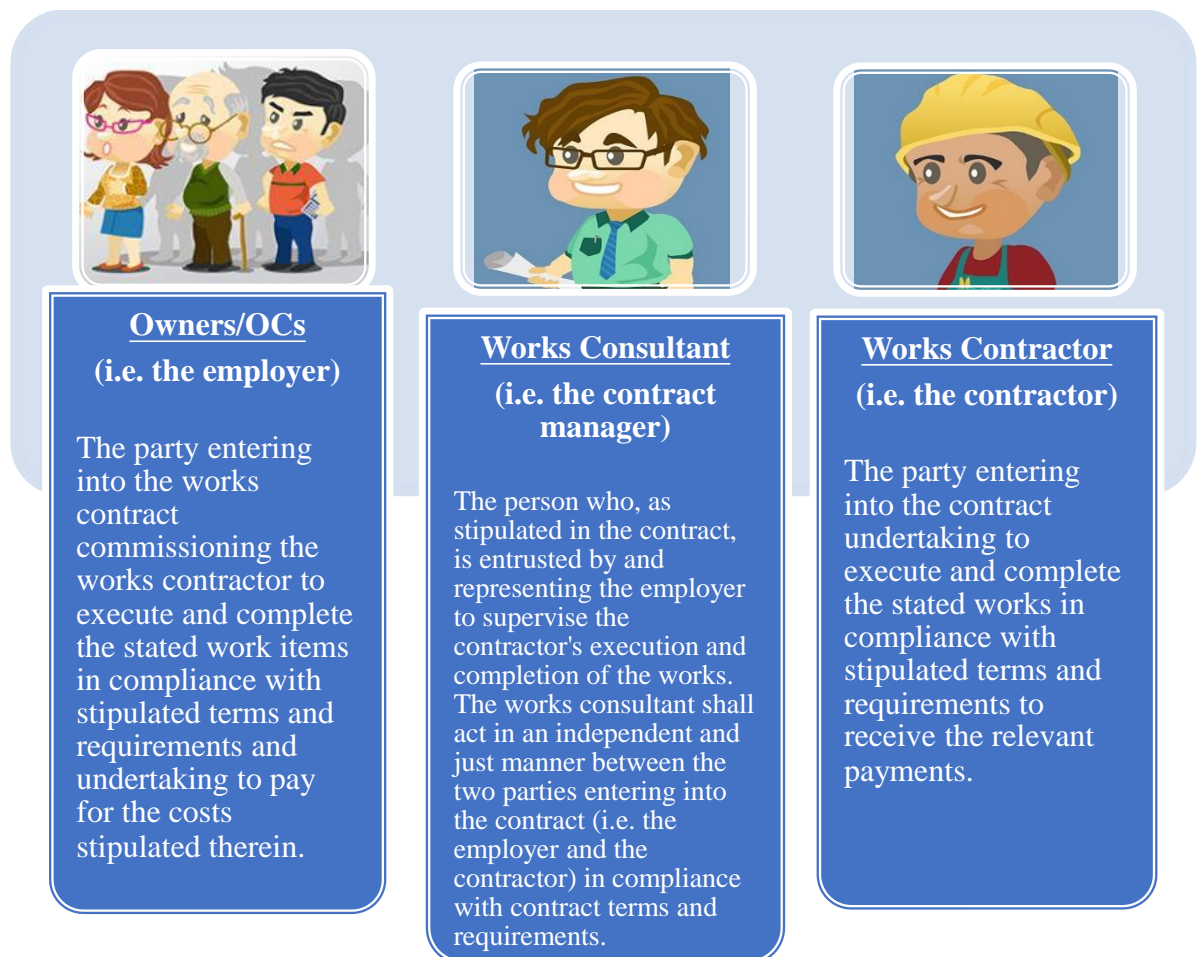
Section 5.1 Preparation for Signing of Contract



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

With meagre experience in managing work projects and contracts, **owners/OCs** may overlook the fundamental details or key points therein and fall prey to their rhetoric or pitfalls, resulting in poor quality of works despite all the effort and money. With this in mind, Step 5 describes the 'major stakeholders' in private building rehabilitation, the points to note and recommended feasible measures at each phase of work project and contract management to facilitate the **owners/OCs'** proper management and supervision of the works.

5.1.1 'Major Stakeholders' in Building Rehabilitation



Reference: *Standard Form of Contract for Maintenance and Renovation Works* (First amendments Dec 2014) by The Hong Kong Institute of Surveyors.

In addition to the major stakeholders above, a supervisory role is usually involved in comprehensive work projects. Given the complexity of building rehabilitation, **owners/OCs** may as well, under feasible financial condition, engage an independent ‘works supervisor’ for professional third-party advices to further enhance the quality of the works.



Works Supervisor

Works supervisor is a person entrusted by **owners/OCs** or the contract manager on site for patrol, inspection, review, inventory supply and documentation of all facilities and activities involved.

While works contractor will undertake to conduct regular site patrols for overall supervision, if they are not permanently stationed, the comprehensive monitoring of works, especially the large-scale items, may well be hindered by the ever-evolving site circumstances. Works carried out on scaffolding or in enclosed spaces that require inspections by engineers with relevant licenses may also be impacted.

As such, to ensure better quality standard, **owners/OCs** may engage a works supervisor (procured directly or through the works consultant) to be permanently stationed on site during the entire rehabilitation project to inspect operations at all key phases to ensure their compliance with quality specifications and **owners/OCs'** expectations, while reporting to the **owners/OCs** directly on the progress, quality and any safety issues of the works on a daily or weekly basis.

A works supervisor shall possess at least 4 years of relevant experience and one of the following academic or professional qualifications: (a) bachelor's degree in civil/structural/geotechnical engineering, architectural technology, materials science, testing and certification, building surveying or architectural studies; or (b) registered professional engineer (civil, structural, geotechnical, material or construction); or (c) registered architect; or (d) registered professional surveyor (building surveying).



Reference: *Standard Form of Contract for Maintenance and Renovation Works* (First amendments Dec 2014) by The Hong Kong Institute of Surveyors and *Code of Practice for Site Supervision 2009* by the Buildings Department (BD).

5.1.2 Signing of Contract and Task Arrangements before Commencement of Works

Collection of Funds

In most comprehensive building rehabilitation projects where mammoth funds are involved, the work costs contributable by **owners** are determined by the ‘undivided shares’ stipulated in the Deed of Mutual Covenant (DMC) of the building and other specific criteria. The **owners/OCs** shall formulate the relevant payment deadlines and methods. In case of uncertainties concerning payment regulations in the DMC, they shall consider seeking professional advice.

⇒ **To understand ‘undivided shares’ – Please refer to [Section 1.2.2](#)**

Reservation of a Reasonable Timeframe for Formulation of Contract

The formulation of works contract, to be done after the owners’ meeting where resolution on the selection of works contractor is passed, generally takes a certain period of time. **Owners/OCs** should reserve a reasonable timeframe (say one month) for the works consultant to follow up on relevant issues, including detailed discussion, negotiation and clarification of contract content and terms with the awardee so as to minimise disputes in the future.

Useful Tip

‘Letter of Acceptance’

In view of the time necessary for contract formulation, the works consultant will generally issue a ‘Letter of Acceptance’ to notify the successful tenderer of the result and actual commencement date of the contract, with previous correspondences and supplementary documentation of tender documents attached. This letter heralds the formulation of the works contract, whose terms and conditions are to be complied by the two parties entering into it. As such, the contractor shall promptly commence relevant preparation works upon receipt of the ‘Letter of Acceptance’.

Clarification of ‘Contract Period’

The ‘contract period’ concerning the completion deadline of the works shall have already been formulated in the tender documents. In the case where matters overlooked by the works consultant or the **OCs** are brought up by the works contractor before signing of contract, the works consultant and **owners/OCs** concerned may have to reconsider the reasonability of the ‘contract period’. However, **owners/OCs** should take note of the fact that it is unfair to modify contract fulfilment deadline once tenders are opened, and that re-procurement may be necessary if circumstances so require.

➡ **To understand how to formulate ‘contract period’ – Please refer to Section 3.2.2**

Arrangement of Meetings

Before the works commence, preliminary meetings should be organised by **owners/OCs**, works consultant and work contractor for communicating the requirements of the **owners/OCs** and the works consultant, as well as execution proposals and needs of the works contractor to facilitate mutual coordination and proper preparation.

Preparation of Site Supervision Plan by the Works Consultant

The works consultant shall formulate an appropriate site supervision scheme with the **owners**, specifying involvement of professionals during the works, frequency of site patrols, qualification and background of inspectors, work items requiring inspection and testing, arrangement of meetings and measures concerning quality assurance, etc.

Submission of Documentation by the Works Contractor for Review

(i) **Organisational Chart of Management Personnel and Workers**

An organisational chart of management personnel and workers helps identify discrepancies in the allocation and qualification between the manpower actually deployed and the relevant contract terms. It also offers a glimpse at the organisational structure of the responsible personnel and their contact information, which facilitates resolution of possible problems during the works in future.

(ii) **Works Schedule**

Cases in which indemnification for delay of works have to be made by works contractor are very common. While indemnification terms and arrangements are generally stipulated in tender documents and the works contract, it is advisable to instruct the works contractor to table a works schedule prior to signing of contract for discussion, negotiation and approval. A works schedule not only facilitates the prompt understanding of relevant arrangements before the works commence (e.g. ways to achieve the contract validity period's target, the connection of work phases, etc.) and the works' impact on the daily operation of the building, but can also be used as a reference for supervision of progress during the works.

(iii) **Emergency Contact Numbers**

In view of inevitable emergencies during the works, **owners/OCs** should instruct the works contractor to provide 24-hour emergency contact numbers, with commitment to on-time arrival to facilitate resolution of the issues.

(iv) **Samples of Work Permits and Uniforms for Workers**

Workers should wear uniforms and work permits to facilitate their identification by security staff and **owners/OCs** of the subject building. The relevant samples should be submitted before the works commence for preparation.

(v) **Works Execution Plans**

It is imperative for the works contractor to formulate a management scheme for the whole rehabilitation project, which shall be tabled for approval before the works commence. The works execution proposal should cover code of practice for workers (e.g. no smoking or gambling), methods and frequencies of daily site cleaning, site supervision and patrol arrangements, safety measures, samples of notices, etc.

(vi) **Insurance Information**

Before the works commence, the works contractor shall procure appropriate insurance policies on statutory requirements in relation to the works (e.g. all-risk insurance, employees' compensation insurance, third-party risks insurance and performance bond, etc.) to minimise physical loss of work materials caused by accidents and to protect the insured against liabilities arising from work casualties of its employees during their employment. The works contractor shall also take heed of the terms and conditions, coverage and claim requirements stipulated therein.

Section 5.2 Manage Contract and Supervise Works after Commencement of Works

The duration required for rehabilitation works ranges from a few months to over one year depending on the scale and complexity involved. To avoid delay of works which may result in inconvenience to **owners** and occupants, additional costs and failure to comply with statutory orders, the **owners/OCs** should monitor the progress of works closely under the guidance of the works consultant.



Simulated Scenario

Case 1: Delay of Works

The rehabilitation works of “Building A” have been started for more than five months, but some of the main works are still not completed and the owners are very dissatisfied. After investigation, Supervision of works by the works consultant’s site supervisory team for a building rehabilitation project was lax (e.g. infrequent site visits by professional staff). The works contractor therefore gave priority to some other projects, and the works consultant took no action on the delay.

Case 2: Over-reliance on works consultant

The MC solely relied on the progress reports submitted by the works consultant, and accepted the latter’s various excuses for the delay. Moreover, property owners were not provided with a work programme or any progress information throughout the project.

Point to discuss :

- Who need to responsible for the “delay”?
- Is there any measure to reduce the chance of “project delays”?



To know more about the progress monitoring ? – Please refer to

5.2.1

5.2.1 Regular Review of Work Progress

To monitor the progress of rehabilitation works effectively, **owners/OCs** may consider the following measures:

Works Schedule

Before the works commence, the works consultant shall instruct the works contractor to table a works schedule for review and approval. After the works have commenced, the **owners/OCs** should conduct regular progress reviews on site. In case of delay, they should instruct the works consultant and the works contractor to provide explanations and rectification plans. The **owners/OCs** may request for and verify amendments to the approved schedule by the works consultant whenever necessary. The works schedule may also be posted at the lobby for reference and supervision purposes.

Regular Meetings

Owners/OCs should take the initiative to arrange regular meetings with the works consultant and the works contractor to monitor the progress of works closely on its conformity with the works schedule and to understand the issues arisen in the execution and their solutions, with meeting minutes properly documented and archived.

Supervision of Works

The works consultant shall, in compliance with contract terms and the site supervision scheme, conduct regular site patrols on the progress, quality, safety and materials etc. of the works to ensure their compliance with relevant laws and contractual requirements. **Owners/OCs** should also participate in regular site patrols together with the works consultant and the works contractor to facilitate the clear communication to and their understanding of issues on the spot (the **owners/OCs** may also engage works supervisors for daily patrols if necessary).

Regular Reports

Owners/OCs may instruct the works consultant and the works contractor to table works reports on a regular basis to acquire relevant information. A works report should cover the progress of the works, defects and their rectification plans, summaries of modifications, contract sums and instructions given by the contract manager, safety reports, etc.



Useful Tip

Create Effective Channels for Communication

A building rehabilitation project is often met with numerous problems. In case of emergency issues, the **owners/OCs** should notify the works consultant and the works contractor for prompt resolution. In the case where only non-emergency issues or defects of individual works are concerned, the **owners/OCs** may consider setting up channels for communication of opinions, e.g. suggestion boxes/books placed at prominent locations of the building for owners to express their voices on the progress and conditions of the works. Proper and effective communication not only facilitates the responsible personnel's prompt understanding, handling and follow-up of defects, but also their priority order. Solution reports prepared by the responsible personnel may also be communicated to the owners through such channels, in turn facilitating the **owners/OCs**' grasp of work progress.

5.2.2 Quality Inspection

One of the works consultant's responsibilities is to supervise quality of works on site with inspections and testing to ensure the works contractor's compliance with contractual specifications and requirements of statutory orders/notices (if applicable) in their execution of works. To avoid riggings arising from lack of supervision, **owners/OCs** should monitor the consultant's performance in supervision of works closely.



Simulated Scenario

Lax supervision

Supervision of works by the works consultant's site supervisory team for a building maintenance project was lax – the works consultant only deployed inexperienced site staff to conduct infrequent site visits, Completely ignore those projects that are not up to standard (especially concealed works) and use inferior repair materials.

The MC relied entirely on the works consultant's flimsy reports with no details or proof/assurance of works done. Moreover, property owners were not provided with adequate information about the project, such as the works to be done and materials to be used.

Point to discuss :

- What are the possible ways to ensure the quality of the project?

Site Supervision Scheme

Under possible circumstances, **owners/OCs** may conduct random inspections on the works consultant's site supervision to see if it complies with the approved supervision scheme. In case of any discrepancies, they should promptly instruct the works consultant for rectifications.

Materials, Methods of Execution and Floor Plans

The works contractor shall obtain the works consultant's approval before adopting any recommended materials, methods of execution and floor plans. **Owners/OCs** may instruct the consultant to report the relevant progress regularly and attach the findings in the regular works report.

Samples of Materials

Samples of materials approved by the works consultant should be displayed at proper location to facilitate reference and follow-up by the **owners/OCs** or workers. The **owners/OCs** may also instruct the works consultant to attach signed labels on the samples as verification of their approved models, sizes and colours etc. to avoid errors.

Design and Work Execution Templates

The works contractor shall create templates of more complicated procedures for the works consultant's approval of designs and results before execution. The approved templates shall also be displayed at proper location to facilitate verification and execution of the relevant works. Examples include positioning concept of exposed outlet pipes and finishes of external walls, etc.

Contractual Requirements and Specifications

Besides entrusting the works consultant with supervision of the contract, **owners/OCs** should as well be familiar with requirements and specifications of each item therein. If any inappropriate issues are found, they should notify the works consultant for handling.

Concealed Works

For works concealed upon completion (such as rust removal on reinforcing bars) where unethical riggings may be covered, the works consultant and **owners/OCs** should demand for orientation photos for documentation and reference of the proper completion of each procedure (before, during and after the works). The proper documentation of repaired parts and their scopes, for instance, can prevent liability disputes on parts with and without rehabilitation in case of accidents in the future.

Logistics Supervision

Proper supervision procedures on logistics of work materials like paints, renderings and waterproofing materials should be carried out. For instance, **owners/OCs** should keep the relevant payment and delivery receipts, on which information such as brands, quantities, unit price breakdowns and delivery location etc. should be specified. The relevant materials should also be stored at locations designated by the **owners/OCs** for effective measurement of their usage while preventing misuse or abuse.

5.2.3 Variations of Works

Modifications of works refers to changes to progress or specifications of works after its contract is awarded, which should be avoided lest unforeseeable financial burden be made to the **owners/OCs** and the works contractor. In the case of any necessary modifications (except emergency works), the works consultant shall provide analysis and advice on their impact on the works schedule and cost for the **owners/OCs**' consideration, agreement and approval before instructing the works contractor to proceed. For modifications inducing an increase of costs (i.e. items not existing in the original contract), the works consultant shall review the relevant quotes provided by the works contractor before giving advices to the **owners/OCs**.



Useful Tip

Reserve provision for the works

In view of unforeseeable issues and risks that may arise during building rehabilitation, some **owners/OCs** will reserve or charge for provision of a certain amount during fund collection to support any extra costs arising from emergency issues.



To learn more about provision for works – Please refer to [Section 3.3.1](#)

5.2.4 Payment for the Works

The payment of works should be made on the relevant contract terms. Under general circumstances, the works consultant will approve interim payments depending on the works contractor's applications and the proportion of completed works. Therefore, besides entrusting the works consultant with supervision and approval of the works contractor's works and applications, **owners/OCs** should instruct the works contractor to table important documents such as reports, photos, certificates and government approval notices for documentation and reference, and conduct necessary on-site inspections for approval of payments. For application for final payment, the **owners/OCs** should verify the works contractor's completion of all works in compliance with contractual standards; if substandard items are found, release of relevant payment and performance bond shall be suspended until rectifications are made by the works contractor.



Useful Tip

Proper financial management

Owners/OCs should take heed of and verify all accounting records of the myriad transactions involved from the beginning to the end of the building rehabilitation project. It is advisable to open an independent account book or bank account to handle relevant incomes and expenditures wherever possible. The relevant receipts, invoices, vouchers, slips and other documents should also be kept in proper condition to facilitate reference in the future.



For more information about anti-corruption - Please refer to [Appendix I](#)

Reference

1. Building Maintenance Toolkit published by ICAC
2. Building Maintenance Guidebook published by Buildings Department
3. Smart Tender DIY toolkit published by URA

Appendix – Relevant Information

Step 5

Appendix I – Anti-Corruption Information (Building Rehabilitation Workflow – Step 5)

Anti-Corruption Information (Building Rehabilitation Workflow – Step 5)

Stage	Risk of corruption and malpractices	Tips of preventing corruption
Progress Monitoring	<ul style="list-style-type: none"> - Lax supervision of the work progress and connivance at the contractor's work delays - Total reliance on the consultant in monitoring work progress 	<ul style="list-style-type: none"> - with the assistance of the consultant, require the contractor to submit a master work programme upon the commencement of the contract, showing the stages and deliverables of the maintenance works required, with timely updates thereafter should there be any changes (e.g. weekly or biweekly rolling programmes); - post the master work programme/weekly or biweekly rolling programmes in a prominent place of the building for information and monitoring by property owners/occupants; - require the consultant to closely monitor the progress of work against the work programme, and report any deviations and follow-up actions taken/to be taken; - conduct regular meetings and joint inspections of work progress with the consultant and contractor to closely monitor work progress.
Quality Checks	<ul style="list-style-type: none"> - Lax supervision, and acceptance of or connivance at substandard/incomplete works, poor workmanship and/or substandard materials - No supervision or quality check on hidden works, which cannot be seen/checked after the works are completed 	<ul style="list-style-type: none"> - require the consultant to submit a site supervision plan, providing detailed arrangement on supervision of the repair works, upon commencement of the project for the OC/MC's approval; - where practicable, conduct random checks on the consultant's compliance with the approved site supervision plan, and require immediate rectification if any deviation is noted; - require the consultant to report on a regular basis (say, biweekly) on the progress and quality of the repair carried out; - require the contractor to submit measurement records and site photos (before and after work completion) certified by the consultant for hidden works which cannot be seen/checked after the works are completed; require the contractor to provide samples of construction /repair materials approved by the consultant for reference, and displace the samples at an appropriate location for the information of and reference by property owners to enhance transparency;

		<ul style="list-style-type: none"> - where practicable and under safe conditions, conduct joint inspections or site observations on the works, materials and work progress with the consultant; - inform the consultant of any irregularities observed on the work of the contractor (e.g. the materials used are different from those approved) for follow-up action, and request the project consultant to report back on the corrective actions taken.
<p>Contract Payments</p>	<ul style="list-style-type: none"> - Exaggerating work progress to expedite contract payment; release payment before work/stage completion - Certifying defective works to facilitate payment before the defective works are rectified - Lack of segregation of duties in payment process, e.g. same person certifies work completion and signs cheques 	<ul style="list-style-type: none"> - require the contractor to submit invoices with details on the actual quantities of work done, against the estimated quantities and prices for individual major works items in tender submission/contract, with reasons for significant variations, and evidence such as photos where applicable, in its payment claims; - require the consultant to assess the cost of the works completed, excluding those that are defective, when certifying contractors' payment claims; - where practicable and under safe conditions, conduct joint inspections with the consultant to check the works claimed to have been completed before making payment; - require the consultant to submit reports on work progress and financial statements of the project account to the MCs/OCs regularly for monitoring; - display the reports on work progress and financial statements in a prominent place of the buildings for property owners/occupants' monitoring and information; - make payment to the contractor in accordance with the contract terms, including the time limit for processing and effecting payments; - where practicable, appoint the treasurer and at least two MC members to sign the cheques for payments; - require the contractor to provide certificates, test reports and any other relevant documents before releasing the final payment; - for a high value, complicated project, consider engaging an independent consultant, e.g. a quantity surveyor, to provide independent¹ assessment of contract payment claims and assist the OC in cost control.

<p>Work Variations</p>	<ul style="list-style-type: none"> - Omitting certain repair works from the tender invitation and subsequently causing variation orders to be issued for such works to the contractor at inflated prices after the award of contract - Causing the issue of orders for unnecessary works during project implementation - Unnecessary switching to higher-priced materials during project implementation to increase the contractor's profit 	<ul style="list-style-type: none"> - when engaging a consultant to carry out a building maintenance project in response to a repair order/ notification, require the consultant to assess the need of and advise on all necessary maintenance works, and include, as far as practicable, all necessary works items in the tender specification and the works contract to minimise the need for using variation orders after commencement of the contract; - require the consultant to justify the needs and seek approval of the MC/OC before ordering/endorsing any work variations; - lay down clear financial limits on the maximum amount of variations that the MC is authorised to approve, above which approval from OC meeting should be sought; - require the consultant to provide cost estimate for any variations requested; - assess the reasonableness of the costs of the work variations required, making reference to the tender prices of similar works items in the contract, if available; - for major/costly work variations, where practicable, consider engaging an independent consultant (e.g. a quantity surveyor) to provide independent cost advice; - properly document any work variations and the costs involved, and disclose them to all property owners /occupants through notices posted in a prominent place of the buildings
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Conduct Inspection and Confirm Completion of Works



Step 6 Milestones:

6.1 Conduct Inspection of Completed Works for Acceptance and Apply for Order Discharge (If Applicable)



- Testing and Commissioning
- Conduct inspection of works for acceptance
- Submit statutory documentation
- Arrange inspection by relevant government departments for discharge of orders
- Approve completion date and extension arrangement of the works and issue works completion certificate



6.2 Rectifications by Works Contractor within Defects Liability Period



- Understand the responsibilities of each party during defects liability period

6.3 Drawing Up Long-Term Plans for Building Maintenance



- Understand the reasons for building maintenance
- Understand preventive maintenance
- Understand the strategies and standards of building maintenance
- Formulate schedules of building maintenance cycle
- Set up dedicated Building rehabilitation fund

6.4 Procure Insurance for the Building



- Understand the purpose of building insurance
- Understand the types of building insurance



Step 6: Conduct Inspection and Confirm Completion of Works



(Scan QR Codes to Watch Videos on 'Building Rehab Platform' Website)

Section 6.1 Conduct Inspection of Completed Works for Acceptance and Apply for Order Discharge (If Applicable)

6.1.1 Testing and Commissioning

Once the works are complete, tests such as adherence of paint and tensile strength of concrete can be conducted on contractual standards. In general, before the acceptance of works for electrical and mechanical facilities, e.g. lifts and fire service systems, relevant tests shall as well be conducted by authorised persons on statutory and contract terms.

6.1.2 Inspection of Works for Acceptance

Once an individual work item or rehabilitation phase is complete, representatives of **owners/OCs** can join with work consultant, work supervisor (if any) and works contractor to conduct site inspection for quality assurance and acceptance of the works, followed by approval of any necessary rectifications.

➡ **What is a 'works supervisor'? Please refer to [Section 5.1.1](#)**

Once the entire rehabilitation project is complete, representatives of **owners/OCs** should join with the works consultant and the works contractor to conduct another thorough inspection for acceptance of all work items listed in the contract to verify the contractor's satisfactory completion of the entire project on contract specifications. In case of missing parts or defects, the consultant shall document all such items in detail to facilitate follow-ups in the future.

6.1.3 Statutory Documentation

Owners/OCs should note whether statutory documentation are submitted by the works consultant and the works contractor in compliance with regulations and requirements prescribed by the law and relevant government departments. In the case where specific authoritative requirements, e.g. orders, are involved, **owners/OCs** should ensure the works' compliance with prescribed requirements and completion within reasonable timeframe to facilitate the completion of order discharge.

6.1.4 Engagement of Government Departments

If the works are carried out on orders issued by government departments, e.g. the Buildings Department (BD), then the works consultant shall, upon completion of such works, arrange site inspection by relevant personnel. Certificates of Compliance issued by government departments are generally regarded as a milestone marking the completion of rehabilitation project and should be obtained as early as possible.

6.1.5 Record Floor Plan

Owners/OCs should instruct the works contractor to table finalised floor plan documentation of various facilities to facilitate their rehabilitation or modification in the future. All work items in the rehabilitation project shall comply with their relevant statutory requirements. The following table lists some documentary proofs for certification of compliance for some types of works:

Type of Works	Documentary Proof to be Submitted	Responsible Government Department	Responsible Personnel ¹
Building works with mandatory submission of drawings to the BD	Certificate on Completion of Building Works BA14	BD	Prescribed professionals and prescribed registered contractors (including prescribed structural engineers and/or prescribed geotechnical engineers where necessary)
Minor Works	Certificate of Completion of Works MW02/MW04 Notice and Certificate of Completion MW05 Notice of Inspection and Certification MW06		
Fixed electrical installation works	Certificate WR1/WR2	Electrical and Mechanical Services Department (EMSD)	Registered electrical workers and registered electrical contractors
Water supply works	Form WVO46	Water Supplies Department (WSD)	Licensed plumbers
Fire service system works	Certificate FS251/ FSI 314/ FSI 501	Fire Services Department (FSD)	Authorised persons and fire service installation contractors
Fireproof structures	All certificates / test reports / assessment reports	BD	Prescribed professionals and prescribed registered contractors
Removals of materials containing asbestos	Works completion certificate	Environmental Protection Department (EPD)	Registered asbestos contractors
Gas installation works	Documentary proof for completion of works	EMSD	Registered gas contractors
Lift maintenance works	Documentation for application of use permit and safety examination	EMSD	Registered lift contractors

¹ When handling documentation and forms required for different types of works, their individual statutory terms and qualification requirements of prescribed persons shall be taken note of.

6.1.6 Arrangement for Certifying Completion Date and Extension for Completion

The works consultant shall approve the final date of completion of the works proposed by the works contractor on contract terms. In case of delays, the contractor shall obtain approval and a signed certificate on extension of works period from the consultant before issuing formal notification on the new completion date to the **owners/OCs**. The consultant shall as well verify with the **owners/OCs** any impacts on work costs so caused. If the extension of works period is not approved by the consultant, the contractor shall indemnify the **owners/OCs** for the delay on contract terms.

6.1.7 Works Completion Certificate

Upon completion of acceptance inspection on substantial works, a works completion certificate proofing the works contractor's proper completion of all work items on contract terms and specifications shall be issued by the work consultant, followed by the commencement of the 'defects liability period'. Given that the works contractor may refrain from handling unfinished items once the works completion certificate is issued, **owners/OCs** should actively participate in the acceptance inspection to ensure the proper completion of the substantial works.

⇒ **What is 'defects liability period'? Please refer to [Section 6.2](#)**

Useful Tip

Owners/OCs should not accept substandard or unfinished works, nor should they neglect supervision of rectification works carried out by the works contractor. Before all rehabilitation or rectification works are properly complete, the **owners/OCs** should make discreet decision on whether to approve the completion of works or to make payments of final instalment or performance bond. In case of uncertainties, they should seek professional advice.

Useful Tip

It is not advisable to issue completion certificates for works partially complete (excluding rectification works in progress), as the works contractor may refrain from handling those works afterwards.

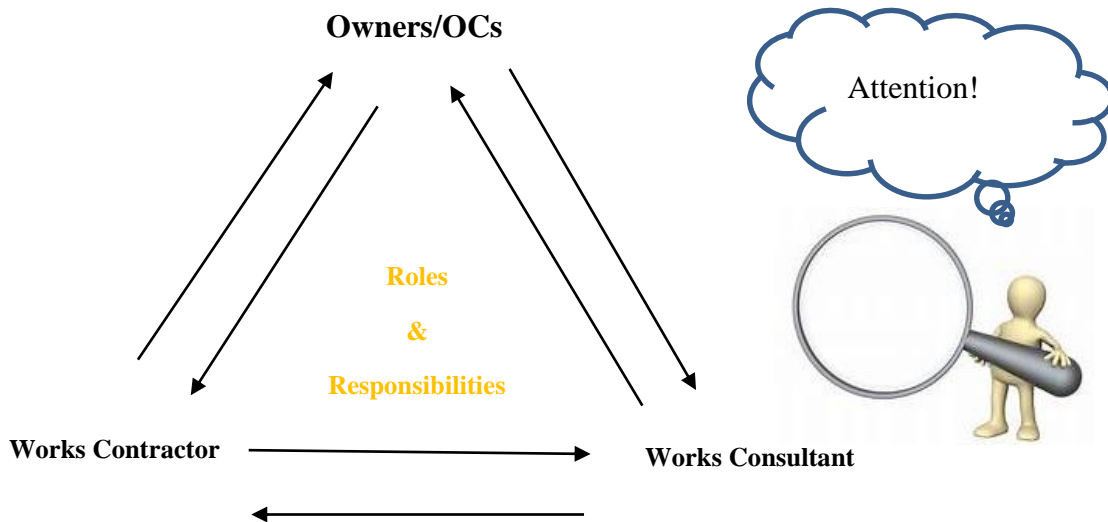
For rehabilitation project where multiple buildings are involved, on the other hand, the works consultant may issue an individual works completion certificate for each building once its necessary works are complete.

Section 6.2 Rectifications by Works Contractor within Defects Liability Period

6.2.1 Defects Liability Period

The issuance of the works completion certificate marks the acceptance of the rehabilitated parts of the building by the **owners/OCs**. Within the defects liability period, which generally spans 6 months to 1 year after issuance of the works completion certificate depending on contract terms, the work contractor shall be responsible for rectifications of all defects found. Upon proper completion of all rectification works, a relevant completion certificate will be issued by the works consultant for release of retained payments by the **owners/OCs**, whose final settlement marks the completion of the entire contract.

6.2.2 Roles and Responsibilities of Each Party during Defects Liability Period



Owners/OCs


- To instruct the works consultant to table a list of defective work items for **owners/OCs**' approval before certifying substantial completion of works;
- To invite all **owners** or residents to report to the **OC** on any defects or delays of works for the works consultant and the works contractor to follow up within the defects liability period;
- To conduct, under feasible and safe circumstances within the defects liability period and before issuance of rectification works completion certificate, a joint inspection with the works consultant to verify the proper completion of rectification works;
- To settle, upon verification of proper completion of all rectification works and the issuance of completion certificate of making good defects by the works consultant, release the remaining payments and retention money to the works contractor.

Works Consultant

- To issue, upon completion of all works on contract specifications and progress requirements, a works completion certificate specifying the start and end dates of defects liability period to the works contractor;
- To conduct acceptance inspection and supervise rectification works on contract terms to ensure no works are substandard or unfinished;
- To approve completion of works and calculate the amounts of final instalment and retention money for **owners/OCs'** verification only after all works or rectifications are complete;
- To prepare and submit to relevant government departments a report or certificate on completion of rehabilitation items prescribed by statutory orders/notices;
- To issue completion certificate of making good to the works contractor at the end of the defects liability period.

Works Contractor

The works contractor shall be responsible for, within the defects liability period specified in the contract, early completion of all unfinished items and rectifications on any defects found therein while ensuring their acceptable quality to the works consultant and the **owner/OCs**.

 **For more anti-corruption information concerning acceptance inspection and completion of works – Please refer to [Appendix I](#)**

Section 6.3 Draw Long-Term Plans for Building Maintenance



6.3.1 Reasons for Building Maintenance

Improve Living Environment and Lower the Risk of Accidents with Preventive Measures

In addition to one-off comprehensive rehabilitation project, it is also important to draw long-term plans for building maintenance. As the proverb ‘prevention is better than cure’ goes, regular inspections and proper maintenance cycles are essential for early detection and timely rectifications of building issues to perpetuate sound conditions of building structure and facilities, in turn providing **owners** and residents with a safe and comfortable living environment while preventing accidents in an effective manner.

Plan Properly to Avoid Impetuous Actions

A building maintenance plan allows sufficient time for the **owners/OCs** and the ‘managers’ to prepare for the works involved and necessary funding. Such plan generally involves comprehensive inspection and assessment of building conditions for gauging the necessary scope of works, followed by determination of targets on the scope and priority of work items based on factors such as materials, efficacy and reliability of facilities, maintenance strategies, budget and lifespan of facilities, etc.

Improve Cost-Effectiveness

At present, maintenance works of buildings in old districts of Hong Kong are largely ‘corrective’ *ad lib*, where **owners’** actions are often deferred to the point that repair orders are issued by the Building Authority in respect of obvious defects. On the other hand, regular inspections of defects and maintenance of facilities can alleviate the deterioration of their components, in turn minimising the inconvenience to residents and the costs involved.

Avoid ‘Vicious Cycle’

Defects in a building without maintenance plans are easily neglected by the **owners/OCs**, where a ‘vicious cycle’ occurs in that, as the condition deteriorates, the cost of rehabilitation project may increase beyond affordability, in turn further dampening the willingness of the **owners** to bear the responsibility therein.

6.3.2 Preventive Maintenance

Effective ‘preventive maintenance’ should put multiple factors concerning the building into consideration, including its use, grading, condition and service indicators etc., with adjustments made on specific circumstances and expected standards.

‘Preventive maintenance’ is a strategy intended to assess and/or alleviate deterioration of building components/facilities and reduce their probability of failure/degradation before occurrence by means of regular and appropriate inspection and repair initiatives. It helps minimise, to the greatest possible extent, unexpected failures in building elements or systems and their emergency maintenance that causes inconvenience and high costs.

Advantages of ‘Preventive Maintenance’

- To effectively maintain building elements and facilities in good condition for ideal functioning;
- To eliminate the danger posed to the safety of residents and the public;
- To minimise the inconvenience caused to residents by emergency maintenance;
- To enjoy a lower cost as compared to emergency maintenance;
- To slow down the dilapidation of the building and to extend its lifespan.

 **Useful Tip**

Owners/OCs should understand that while regular preventive maintenance and timely fixes can prevent most emergency issues, failures/defects may still occur. Therefore, **owners/OCs** should make due preparations to facilitate their swift and effective response in case of such issues.

6.3.3 Strategies and Standards of Maintenance

While the required maintenance standards and priority order of the relevant work items for each building vary in accordance with its usage and grading, one-off execution of all necessary work items may not be affordable for the **owners/OCs** concerned. The priority order of work items should be properly understood and determined formulating strategies, plans and budgets for maintenance in the arrangements of daily building management tasks.

Owners/OCs of newly established buildings are recommended to formulate strategies and standards for maintenance as early as possible to facilitate long-term arrangements of budgets and plans for rehabilitation, and to adopt preventive maintenance practices to enhance quality of building management, in turn perpetuating the effective operation of facilities therein.

Priority Order of Maintenance Work Items

(i) **Emergency Maintenance**

Defects that may pose threats to the safety and health of the public and the residents require emergency maintenance. These include loosened/spalled tiles from external walls, defective fire service installations and lift components, etc.

 **Useful Tip**

Contingency Instructions

To prepare for emergency maintenance, **owners/OCs** are recommended to:

- Prepare a contact list of all **owners/residents** of the building to facilitate timely notification for the affected in case of emergencies;
- Display the names and contact numbers of representatives of the **OCs/‘managers’** at prominent location of the building to facilitate timely report of issues by the **owners/residents**;
- Prepare a list of relevant works contractors to facilitate the timely contact of suitable contractor to carry out necessary maintenance works for emergency issues.

(ii) **General Maintenance and Replacement**

The maintenance works for defects that may cause inconvenience or nuisance to **owners/residents**, such as water seepage from rooftop, freshwater supply system or drainage pipes, should take priority over work items for renovation and facility enhancement purposes. Delay of these maintenance works may not only aggravate the condition of the building, but also result in emergency maintenance of higher costs.

(iii) **Renovation and Facility Enhancement Works**

Work items for pure renovation or facility enhancement purposes should be given a lower priority except when they are to be carried out in parallel with emergency work items to reduce costs. However, their relatively lower priority does not necessarily imply their unimportance, for these works are generally intended to enhance the comfort and beauty of the building concerned, such as replacing dilapidated tiles on external walls with quality renderings.



Useful Tip

During building rehabilitation, modernised facilities such as smart lighting system and smart card entrance and security system may be added where necessary to enhance the effectiveness of building security and energy saving.

6.3.4 Formulate Schedules for Building Maintenance Cycle

In view of the individual lifespan of each equipment/facility in a building, **owners/OCs** shall formulate an individual schedule of maintenance cycle² for each equipment/facility to facilitate their timely inspection, maintenance and repair on respective statutory requirements, frequency and condition of use, or objective circumstances such as weather condition.



To learn more about building maintenance cycle – Please refer to [Appendix II](#)

6.3.5 Set up Dedicated Building Rehabilitation Fund

The substantial costs involved in sustaining proper condition of a building and regular maintenance works may not be met solely by the revenue stream from standard management fee. One of the feasible and effective financial solutions is to set up dedicated building rehabilitation fund³, where instalments can be collected along with monthly management fee payable by the **owners** to support comprehensive maintenance plans, thereby largely relieving the financial burden on **owners** in case of large-scale rehabilitation works⁴.

² The inspection cycles for fire service facilities, electrical and lift installations etc. shall comply with their relevant statutory requirements. For maintenance cycles of other facilities, please refer to *Building Maintenance Guidebook* published by the **BD** and Item 5.3 in Section 5 of *DIY Tool-kit* by the Smart Tender scheme.

³ In compliance with regulations in force in *Guidelines for Deeds of Mutual Covenant* issued by the **Lands Department** (LD) and the *Building Management Ordinance*, it is mandatory for all buildings to set up a contingency fund to pay for the costs of non-regular items in the future, including building rehabilitation, maintenance and enhancement projects.

⁴ For more information about financial management of OCs, please refer to Section 3.1 in *Building Financial Management Toolkit* or the HAD website:
https://www.buildingmgt.gov.hk/en/financial_management_procurement_and_insurance/5_1.htm

Section 6.4 Procure Insurance for the Building⁵

6.4.1 Purpose of Building Insurance

The purpose of building insurance is to provide indemnification for financial losses induced by casualties and damage or destruction of property with regard to building management so as to minimise the bearable risk of **owners** or building management organisation.

While it is common for **owners** to purchase insurance for private property in their flats and the building, the management organisation shall procure a policy of insurance for common areas and facilities in the building (e.g. lifts, staircases and fire service installations, etc.) to make claims with the insurance company for indemnification for relevant losses.

In the case where accidents relevant to rehabilitation works occur at a building where no policies of insurance have been procured, the owners shall be responsible for the costs and claims incurred, where the collection of funds by the **owners** themselves may result in delay of relevant works and disputes. Even if such costs or claims are incurred by negligence of the building management company or the OC, individual **owners** may as well be liable.

⁵ For more information about procurement of insurance for building, please refer to **Home Affairs Department – Building Management website** (https://www.buildingmgmt.gov.hk/en/financial_management_procurement_and_insurance/5_3.htm).

6. 4. 2 Types of Building Insurance

Three types of insurance for private buildings :

Types		Scope	Coverage
Mandatory	Public Liability Insurance (also known as "Third Party Risk Insurance")	This insurance provides indemnity for compensation and associated legal costs against the insured, as a result of bodily injury to or the death of a third party caused by the insured's (and his employees') negligence in managing the building.	Section 28 of the Building Management Ordinance (Cap.344) requires and OC to procure and keep in force in relation to the common parts of the building and the property of the corporation. The minimum insured amount of each policy shall be \$10 million per event.
	Employees' Compensation Insurance (also known as "Workmen's Compensation Insurance")	If staff are involved in building management work, their employer (i.e. OC, mutual aid committee or property manager) is required under the Employees' Compensation Ordinance (Cap.282) to take out such an insurance policy to provide compensation for those injured or killed out of and in the course of their employment.	The amount shall be calculated on the basis of the total annual income of all employees, including salaries, double pay, bonuses, allowances, cash awards, etc.
Non-mandatory	Property-All-Risks Insurance (also known as "Property Insurance")	When there is any loss or damage to the common properties of the building due to fire or other risks covered by the terms of the policy, the insured can seek the insurance company for indemnity. Such risks may include storm, flood, malicious act, etc.	The amount should be able to cover the current cost of repairing the common parts or replacing the common facilities of the building

For details of the above, please refer to the latest legislative provisions ⁶.

⁶ For details of the Building Management (Third Party Risk Insurance) Regulation, please refer to the relevant website. (https://www.buildingmgt.gov.hk/tc/whats_new/2_4.htm)

 **Useful Tip**

To learn about ‘points to note’ and ‘list of authorised insurers’ when procuring insurance,

please refer to **Home Affairs Department** – Building Management website:

‘Points to Note’

https://www.buildingmgt.gov.hk/en/financial_management_procurement_and_insurance/5_3_3.htm

‘List of Authorised Insurers’

https://www.buildingmgt.gov.hk/en/financial_management_procurement_and_insurance/5_3_6.htm

Reference

1. Building Maintenance Toolkit published by ICAC
2. Building Maintenance Guidebook published by Buildings Department
3. Smart Tender DIY toolkit published by URA

Appendix – Relevant Information

Step 6

Appendix I – Anti-Corruption Information (Building Rehabilitation Workflow – Step 6)

Appendix II – Building Maintenance Handbook

Anti-Corruption Information (Building Rehabilitation Workflow – Step 6)

Stage	Risk of corruption and malpractices	Tips of preventing corruption
Work Completion	<ul style="list-style-type: none"> - Acceptance of substandard/incomplete works, lax supervision on defects rectification, etc. - Certifying final completion, or releasing final payment or retention money, before completion of all works or defects rectification 	<ul style="list-style-type: none"> - require the consultant to prepare and submit a defects list for agreement by the MC/OC before certifying practical completion of the works; - invite all property owners/occupants to report on any defects or outstanding works to the MC/OC, consultant and/or contractor for follow-up actions during defects liability period; - where practicable and under safe conditions, conduct joint inspections with the consultant to check the satisfactory completion of the defect rectification works before expiry of the defects liability period and issue of final certificate of completion to the contractor.

Facility	Works item	Cycle
External Walls Painting	Redecoration	4 to 5 years
External Walls Finishes	Regular inspection	yearly
	Detail inspection and check up	5 to 6 years
Structural	Regular Checking	yearly
	Detailed checking	5 to 6 years
	Structural repair	as and when necessary
Internal wall	Redecoration/touching up	3 years
	Structural repair	as and when necessary
Fresh Water Supply	Inspect grease, switches pumps & check valves	monthly
	Cleanse water tanks & check valves	3 months
Flushing Water Supply	Inspect grease, switches pumps & check valves	monthly
	Cleanse water tanks & check valves	6 months
Windows, External Railings & Metalwork	inspect condition & refix	yearly
	Re-painting (Steel and iron)	2 to 3 years
Drainage-Roof	Check and cleanse drains and surface channels	Every two weeks and before and after a heavy rainstorm or a typhoon
	Check externally for defects or vegetation growth	yearly

Facility	Works item	Cycle
Underground drainage system	Check and cleanse manhole	2 months
	C.C.T.V. survey for underground drains (if frequent subsoil movements are expected)	2 years
Lifts	Oiling & servicing	monthly
	Overhaul	yearly
Electrical Installations (an approved loading exceeding 100A)	Employ a registered electrical contractor to inspect, test your electrical installations and certified.	Shall be tested and certified once every five years.
Fire Safety Installation	Inspect & refix by management staff	weekly
	Overhaul & report to Fire Services Department	yearly
	Fire-resisting doors	1 to 2 days
Service Risers and installation Pipes	Regular check up by registered gas contractors	At least once every 18 months
Play Equipment	Inspection by management staff	1 to 2 days
	Inspection by mechanics/ specialist	yearly
Slopes and Retaining Walls	Inspection of surface drainage channels and surface protection by management staff	At least once a year and should preferably be completed before the wet seasons and after a heavy rainstorm or a typhoon
	Routine maintenance inspections	At least once a year and should preferably be completed before the wet seasons and after a heavy rainstorm or a typhoon
	Inspection by a qualified Geotechnical Engineer	At least once every five years
Others	Alarms, Communal Aerial Broadcasting Distribution System (CABD), security, etc.	6 months to 1 year
	Roofing, floors, finishes	yearly

Source : Building Maintenance Guidebook published by BD and Smart Tender DIY toolkit published by URA