

Conflict of Interest

Red Flag:

A Management Committee (MC) member has engaged the works contractor of the building maintenance project to renovate his own flat, but he has not declared conflict of interest to the MC.



Tender Rigging

Red Flag:

Tender prices are much higher than market price, and there are indications that the tenderers have communicated with each other.



Corruption Risks:

- The MC member may have breached the Home Affairs Department's Code of Practice on Procurement of Supplies, Goods and Services. Deliberate non-disclosure of conflict of interest may constitute a criminal offence such as fraud.
- If the MC member has accepted an advantage, as defined under the Prevention of Bribery Ordinance (POBO), from the contractor (e.g. free renovation services for his flat) as a reward for favouring the contractor in the tender exercise or subsequent contract administration, he may have contravened POBO.

Preventive Measures

Request owners and MC members involved in tender exercises/administration of maintenance projects to avoid conflict of interest. If unavoidable, make a declaration to the MC.

Corruption Risks:

- Tenderers may have colluded to inflate the tender prices which may contravene the Competition Ordinance.
- If bid-rigging is facilitated by the corrupt assistance of MC members, consultant, or management company staff, it may be a bribery offence.

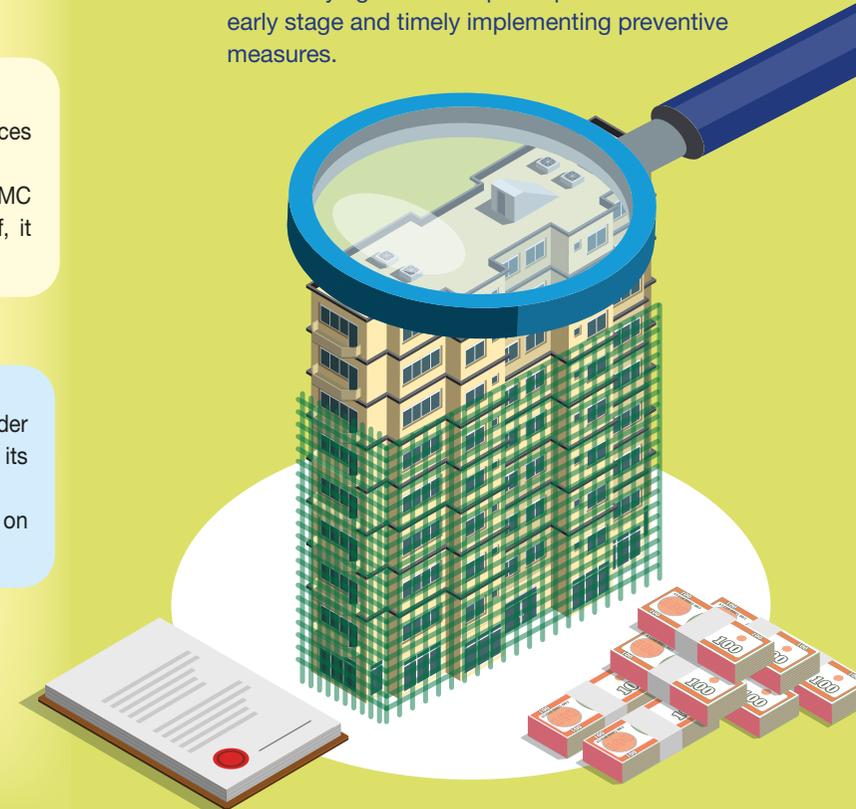
Preventive Measures

- Adopt the Urban Renewal Authority's Smart Tender Scheme for professional technical support including its e-tendering platform.
- Engage an independent consultant for third party advice on the estimated cost and tender prices.

Building Maintenance Corruption Prevention Red Flags



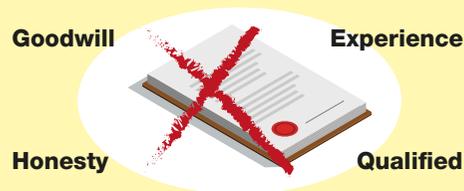
Corruption in building maintenance not only inflates the project costs, but also jeopardises the works quality and public safety. Property owners should stay alert to the illegal conducts of unscrupulous stakeholders such as consultants and contractors. This pamphlet lists the six most common red flags in building maintenance projects to assist building owners in identifying the corruption problems at an early stage and timely implementing preventive measures.



Moving Goalposts in Tender Assessment

Red Flag:

Best tenderer is disqualified or not recommended for contract award by the consultant for reasons beyond the tender assessment criteria after assessment process.



Preventive Measures

- Require consultant to pre-determine the tender assessment criteria, and seek owners' prior agreement to any subsequent revision.
- Fully justify and document the reasons if the best offer is not recommended.
- Invite owners/MC members to participate in interviewing tenderers, where appropriate.

Corruption Risks:

Unscrupulous consultant may have accepted advantages from a particular contractor in return for favouring the latter in the tender exercise.

Lax Site Supervision

Red Flag:

Defective works are detected soon after works completion.



Corruption Risks:

Compromised consultant may have accepted advantages from the contractor for conniving at the latter's substandard works/materials.

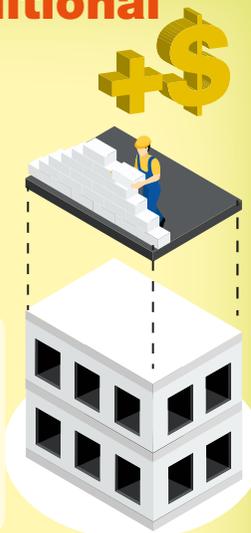
Preventive Measures

- Require consultant to submit a site supervision plan, and submit periodic reports on works supervision and progress.
- Require contractor to submit measurement records and site photos for hidden works.

Unnecessary Additional Works Items

Red Flag:

Significant quantity or value of additional works are ordered shortly after contract award.



Corruption Risks:

The consultant may have conspired with the contractor to falsify the scope of works and inflate the total contract sums by issuing unnecessary/inflated variation orders.

Preventive Measures

- Require consultant to provide justification and estimate, and seek owners' approval for major variation of works.
- Consider seeking independent professional advice on the estimated value and the scope of works in the case of major or substantial variations.

Premature Payment and Certification

Red Flag:

Payment is released and works are certified completed before completion.



Corruption Risks:

The consultant may have accepted advantages from the contractor for premature release of payment and certification of works.

Preventive Measures

- Require contractor to submit supporting documents with site photos when applying for payments
- Require consultant to inspect and certify the work done before releasing payment and issuing certificate of works completion.



You are welcome to visit our website: www.bm.icac.hk for corruption prevention services pertaining to building maintenance. For enquiries, please call 2929 4555. To report corruption, please call 25 266 366 (24-hour).



This pamphlet 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 pamphlet. 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 pamphlet 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 ICAC in the production of this pamphlet 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.