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9 June 2000

All Registered Lift Contractors

Dear Sirs,

Circular 10/2000
Installation and Maintenance of CCTV Systems in Lifts

We refer to our previous Circular Nos. 14/99, 4/2000 and 7/2000.

Further legal advice has recently been received from the Department of Justice that subcontracting CCTV installation/maintenance works is allowed for a registered lift contractor (RLC) without a security licence.

An issue has recently been raised concerning whether the previous standpoint of the Department of Justice would have the implication that Security Work must be done through a direct contract between the owner of the lift (or the Government under a Government works contract) and a licensed security contractor. Where a Government works contract (e.g. lift works or building works) also involves some Security Work (e.g. the installation of security alarm system), the current practice is that the Government contractor, who does not have a license under the Security and Guarding Services Ordinance (Cap. 460), is allowed to subcontract the Security Work to a security contractor who has a licence under Cap. 460 (a "licensed security contractor"). There is concern that this current practice has to be changed.

The Department of Justice reflected that the interaction between the Lifts and Escalators (Safety) Ordinance (Cap. 327) and Cap. 460 is not entirely satisfactory where the lift works involve "security work" i.e. the installation/maintenance of CCTV system in lifts. It is arguable whether RLC who has subcontracted the installation or maintenance works of the CCTV system in lifts to a security contractor is supplying the owner of the lift with a worker to do the security work, or whether the security contractor is supplying the owner of the lift with a worker to do the security work.

One may argue that the RLC should be regarded as supplying the owner of the lift with a worker to do the security work since the RLC remains bound by the contract with the owner and that section 11(1) of Cap. 460 is contravened. One may also argue that in practice it is really the licensed security contractor (i.e. the subcontractor) who is supplying the worker to do the security work and there is no contravention of section 11(1). If one accepts

this argument, the RLC who does not have a licence under Cap. 460 may subcontract the installation or maintenance works of the CCTV system in lifts to a licensed security contractor, and the Government may continue the current practice of allowing the Government contractor under a Government works contract to subcontract the Security Work to a licensed security contractor mentioned above.

Whilst the legal position on the issue is not entirely clear, having considered the matter further and the current practice of Government works contract mentioned above, taking a pragmatic approach on the issue, the Department of Justice has accepted that one may take the view that the Contractor under a Government works contract, who is not a licensed security contractor, may subcontract the Security Work to a licensed security contractor and there is no contravention of section 11(1) of Cap. 460 on the ground that the licensed security contractor is actually supplying workers to do the security work, having regard to the objective behind Cap. 460 of ensuring that Security Work is done by individuals with a permit under Cap. 460 and companies with a licence under Cap. 460. If the subcontractor has a valid licence under Cap. 460 to do the Security Work, it seems that the aforementioned objective behind Cap. 460 is not prejudiced. Accordingly, the Department of Justice has accepted that the Government may continue the current practice of allowing the Government contractor, who is not a licensed security contractor, to subcontract the Security Work to a licensed security contractor.

In the context of a lift works contract, the above pragmatic approach adopted by the Department of Justice would enable the RLC, who does not have a licence under Cap. 460, to subcontract the installation/maintenance works of CCTV systems in lifts, to a licensed security contractor who has a valid licence under Cap. 460 for such security work (although DEMS' permission under section 29B of Cap. 327 would still be required if maintenance works of the CCTV system in lifts are involved).

The guidelines in Circular No. 4/2000 dated 28 February 2000 are therefore reviewed in light of the above advice recently given by the Department of Justice. The registered lift contractor who does not have a security licence may subcontract the installation/maintenance works of CCTV systems in lifts to a licensed security contractor.

Yours faithfully,

(G.M.W. CHUI)
for Director of Electrical & Mechanical Services

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D of H (Attn.: TS/2)
D of FS (Attn.: Fire Protection Command)
DB (Attn.: CBS/Legislation)
Security and Guarding Services Industry Authority
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SCMN/GMWC/tp