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16 April 2013

All Registered Lift/Escalator Contractors

Dear Sirs,

Circular No. 04/2013

Enhanced Control Measures for Subcontracting of Lift/Escalator Works

The Lifts and Escalators Ordinance (“the Ordinance”) stipulates that a registered lift/escalator contractor (“RC”) who undertakes any lift/escalator works, except with the written approval of the Director of Electrical and Mechanical Services (“the Director”), must not subcontract the works or any part of the works, other than installation/demolition of a lift/escalator, to any other person who is not an RC. In addition, a set of measures are introduced with the Ordinance to strengthen the control over subcontracting of lift/escalator works (including subcontracting of lift/escalator works by an RC to another RC):-

(i) Notification of Undertaking and Subcontracting Works

Pursuant to the Lifts and Escalators (General) Regulation, all RCs are required to notify in the specified form the Director their undertaking and subcontracting of lift/escalator works not later than 7 days before the first commencement day of the works. Any RC who without reasonable excuse contravenes the requirement is liable for criminal sanction.

Forms LE2 and LE3 (available at: http://www.emsd.gov.hk/emsd/eng/pps/leo_pub_form.shtml) are the specified forms to be used respectively for notifying subcontracting and undertaking of lift/escalator works. Please note that the form LE2 (attached) has recently been revised to require provision of the reasons for subcontracting of lift/escalator works.

As responsible services providers, RCs should seek the prior consent of

the Responsible Persons ("RPs") before entering into any subcontract to any person for the carrying out of lift/escalator works it has undertaken to carry out. Pursuant to the Code of Practice for Lift Works and Escalator Works, any RC who has subcontracted lift/escalator works to another person should enter into the log-book the name and contact details of the subcontractor and the scope of works being subcontracted, so as to enable the RPs for the lift/escalator involved and other interested parties to have access to the subcontractor information.

If the day to day maintenance of a lift/escalator undertaken by an RC (the principal contractor) is subcontracted to another RC (a subcontractor), both the principal contractor and the subcontractor should each affix a durable label with their names and emergency contact telephone numbers in a conspicuous position in the car of the lift or in a conspicuous position adjacent to the main landing of the escalator.

(ii) Joint obligation of RCs in the subcontracting arrangement

For any subcontracting of lift/escalator works, all RCs undertaking such works, whether serving as a principal contractor or subcontractor, must observe all the applicable regulatory controls and administrative measures. RCs must comply with the requirements stipulated in section 16(1)(a) or 47(1)(a) of the Ordinance to ensure that the works are carried out properly and safely. Also, according to section 16(1)(c) or 47(1)(c) of the Ordinance, all the RCs are required to ensure, in respect of the lift/escalator works they have undertaken to carry out, that there is sufficient workforce to carry out the works. Any RC who without reasonable excuse contravenes the requirement is liable for criminal sanction.

RCs are reminded that PM points accorded in respect of non-compliant items identified from inspections under the CPR Scheme of the works which have been carried out by a sub-contractor will also apply to the principal RC.

(iii) Cancellation of registration for failure to rectify shortfall in resources

If it is revealed through inspections or audit inspections that an RC, including those serving as subcontractor, does not have adequate resources to carry out the lift/escalator works safely and properly, EMSD will require the RC to increase its resources to ensure that the services provided by the RC would be up to the required safety standard. EMSD may consider advising the Register to consider canceling or suspending the registration of the RC if no improvement has been made by the RC concerned.

(iv) Refusal of registration renewal in case of non-compliance

In processing registration renewal applications of an RC, the Register would take into consideration whether the RC has adequate resources to undertake its lift/escalator works. If the Registrar has reason to believe the RC has not fully discharge its duties, the Registrar may refuse to renew the registration for the contractor for the reason that it is not a "fit and proper" person continue to be registered.

There is a general concern that subcontracting might bring about adverse impacts on the quality of works, in particular, for those non-value added multi-tiers subcontracting arrangements. Your kind cooperation is sought to avoid non-value added multi-layer subcontracting.

EMSD has stepped up inspections on subcontracted works and will seriously scrutinize all subcontracting notifications. In parallel, EMSD will enhance publicity and education to facilitate the public to make informed choice in selecting their lift/escalator contractors and monitor the services provided by RCs, including those who are serving as subcontractors.

All RCs are reminded to duly observe the aforementioned requirements/measures. Should you have any question, please contact Mr. Wallace CHUI on 2808 3237.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized initial 'W' followed by a series of loops and a long horizontal flourish.

(W. S. CHUI)

for Director of Electrical and Mechanical Services