

(Revised)

Construction Industry Council
2nd Progress Report of Committee on Subcontracting

Purpose

This paper outlines main points discussed at the 2nd meeting of the Committee on Subcontracting held on 9 August 2007. The record of attendance is at Annex.

Issues Discussed

2. Members discussed the following items –
 - Imposing administration charge by main contractor on accident reporting for subcontractors;
 - Improvements to Voluntary Subcontractor Registration Scheme (VSRS); and
 - Way forward for Stage 2 of VSRS.

Progress on Matters Arising from 1st Meeting on 28 May 2007

3. Members noted the following –

Paragraph 11(a)

Co-opted members and Government's Representatives had been invited to join the Committee.

Paragraph 11(b)

At its meeting on 11 June 2007, CIC endorsed the appointment of Mr S S Lee as chairman of the Management Committee and the replacement of Mr Peter Ayres by Mr TSE Chun-yuen as member of the Committee.

Paragraph 11(c)

The list of trades to be added to the Primary Register was being drawn up through discussion with the Hong Kong Construction Sub-contractors Association (HKCSA).

Paragraph 11(d)

Summary of relevant discussions of the PCICB Working Group on Management of Subcontracting would be distributed shortly after the meeting.

[Post meeting note –

The summary was distributed on 3 September 2007.]

Imposing Administration Charge by Main Contractor on Accident Reporting for Subcontractors

4. In 2004, the Democratic Party conducted a study on the subcontracting system of the local construction industry and issued a public policy working paper reporting on the findings and recommended improvement measures. These included recommending PCICB to set upper bounds on the administration charges levied by main contractors for processing reports of injuries suffered by subcontractors' workers. HKCA gathered from its members the reasons for imposing the administration charges and the amounts of these charges and presented the findings to the meeting of the former PCICB Working Group on Management of Subcontracting held in January 2007. Some Working Group members, including HKCSA and HKFEMC, were not convinced on the justification for levying administration charges. As undertaken at the meeting of the Working Group, HKFEMC submitted a paper setting out its position on the issue.

5. According to HKCA, it was a common contractual arrangement for principal contractors to take out insurance covers for employees of subcontractors because, under section 24 of the Employees' Compensation Ordinance (ECO), principal contractors were liable to pay employees' compensation to employees of their subcontractors (as provided in section 40(1B) of ECO). Under such arrangements, subcontractors would be required to notify the principal contractor of injuries suffered by their employees so that the latter could notify the insurer and LD. HKCA's further asserted that, even in the absence of

contractual provisions for principal contractors to insure for subcontractors, it would be prudent for principal contractors to require reporting of accidents by subcontractors to assure their entitlement to insurance protection and reporting of accidents to LD.

6. HKFEMC questioned the justification for levying administration charges in both cases. Where principal contractors insured for subcontractors, the administration work for accident reporting should be covered by the payments stipulated under subcontracts for the insurance protection and should not be reimbursed on a case-by-case basis. Where principal contractors did not insure for subcontractors, the latter should be given the choice of either using the service of principal contractors for accident reporting or complying with such obligations using their own resources. HKFEMC also objected to imposing fixed charges for all cases without taking into account their complexity.

7. While Members had different views on the justifications for levying administration charges, they generally agreed that one of the possible solutions was to stipulate the need to pay administration charges and their amounts explicitly in subcontracts. Given the complexity of the issue, an informal task force consisting of interested members, LD and Hong Kong Federation of Insurers would be formed to further discuss the matter and make recommendations on the best practices.

8. On the concern that imposition of administration charges might induce subcontractors not to report site accidents, Members noted that there was no evidence of such cases. In fact, given the substantial liability which could result from typical injuries, it was doubtful whether subcontractors would risk losing insurance protection through failure in reporting.

Improvements to Voluntary Subcontractor Registration Scheme

9. The former PCICB conducted a questionnaire survey on Registered Subcontractors to identify the benefits of joining the VSRS, gathering feedback on the training courses currently provided, determining preferences for new value-added services and inviting suggestions for improving the VSRS. Having considered the results of the survey, the Working Group recommended improving the training for Registered Subcontractors, providing new value-added services and considering the establishment of subcontractors' associations. The Secretariat reported on the progress achieved on these initiatives.

10. On training, the CIC Secretariat was organizing a course on written subcontracts based on the Guidelines on Standard Form of Domestic Subcontracts for Basic Trades (published by PCICB in May 2005) for raising subcontractors' awareness of the importance of written contracts. Attendance certificates would be issued for future courses as recognition of efforts in attending. Some of the courses would be held outside office hours in response to the preference of some of the respondents to the survey. Members agreed that the co-ordination of the training for subcontractors would be pursued after the amalgamation of CIC and CITA.

11. On value-added services, the issue of regular newsletters to improve communication with subcontractors and the establishment of a resources centre to provide Registered Subcontractors with access to reference information would be considered after the establishment of the permanent CIC Secretariat.

12. On the establishment of subcontractors associations, HKCSA was promoting the establishment of associations for subcontractors in various trades. Up to now, such associations had been established for plastering, marble and granite, steel fixing, scaffolding, façade, painting, heavy lifting and miscellaneous works. CIC would support HKCSA's efforts in establishing associations for other trades.

Way Forward for Stage 2 of Voluntary Subcontractor Registration Scheme

13. As envisaged in the operational framework for the VSRS formulated by the PCICB Working Group on Management of Subcontracting in early 2003, VSRS would be implemented in two stages. Stage 1 involving a Primary Register with relatively accommodating entry requirements was launched in November 2003. Stage 2 which could involve a Premier Register with more demanding entry requirements and grading of subcontractors based on capability might be implemented subject to prevailing response and feedback from the industry.

14. The PCICB Working Group on Management of Subcontracting discussed the options for implementing Stage 2 in early 2006 but did not reach consensus on the way forward. On the basis of the discussions of the Working Group, three options for Stage 2 were formulated for Members' consideration –

- *Option 1 - Status Quo*: continuing to operate the Primary Register in its present form and giving up the initiative of introducing grading;
- *Option 2 - Enhanced Listing*: enhancing the Primary Register by allowing subcontractors to include on voluntary basis additional information (such as year of incorporation, organization structure, works experience and reference on past performance) in their listing; and
- *Option 3 - Grading*: introducing grading in Stage 2 of the VSRS.

15. Having compared the benefits and drawbacks of these options, Members decided to adopt Option 3 because this was the only option which could achieve the target of driving subcontractors to improve their standards. In line with this objective, the grading system should put more emphasis on performance of subcontractors instead of other attributes (such as financial resources).

16. Some Members expressed concerns about possible duplications between the next stage of the VSRS with existing Government registration schemes and the Minor Works Control Scheme which was being taken forward by BD and suggested considering the consolidation of the various registration schemes in the long term. The Secretariat would formulate proposal for Stage 2 of the VSRS for consideration.

Further Actions

17. The following further actions were agreed –
- (a) An informal task force would be formed to deliberate on imposing administration charges by main contractors on accident reporting for subcontractors; and
 - (b) The Secretariat to work out a proposal for Stage 2 of the VSRS for consideration by the Committee.

**CIC Secretariat
September 2007**

Committee on Subcontracting

**2nd Meeting held at 2:30 pm on 9 August 2007
in Conference Room 1201, Murray Building**

Record of Attendance

Present

Mr S S Lee	Chairman
Ms Teresa Cheng	
Mr CHEUNG Tat-tong	
Mr POON Man-hon	
Mr TSE Chun-yuen	
Mr WAN Koon-sun	
Ms Ada Fung	Representing Permanent Secretary for Transport and Housing (Housing)
Mr LAW Wai-tai	Hong Kong Construction Association
Mr Paul Chong	Hong Kong Federation of Electrical and Mechanical Contractors
Mr Bernard Hui	Hong Kong Institute of Architects
Mr LAI Chi-hung	Hong Kong & Kowloon Painters General Union
Mr Andy Ip	Contractor's Authorized Signatory Association
Mr CHEUNG Tak-hing	Hong Kong Construction Site Workers General Union
Mr Joseph Ng	Hong Kong General Building Contractors Association
Mr C S So	Henderson Land Development Co. Ltd.
Ms Sonia Yung	Housing Department
Mr LAM Siu-tong	Buildings Department

Absent with Apologies

Mr Russell Black
Mr Michael Green

Mr Conrad Wong

Mr James Chiu

Mr CHOI Chun-wa

Ir. Edgar Kwan

Mr Lawrence Ng

Hong Kong Marble and Granite Merchants
Association

Mr YAU Hung-yuen

Association of Electrical Contractors

In Attendance

Mr Michael Chu

Development Bureau

Construction Industry Council Secretariat

Mr K H Tao

Chief Assistant Secretary for Development
(Works) 1

Mr Solomon Wong

Assistant Secretary for Development (Works)
Public Works Systems Administration 1