

Construction Industry Council

Committee on Subcontracting

The 7th Meeting of the Committee on Subcontracting was held on Monday, 10 November 2008 at 2:30 pm at Room 1201, Murray Building, Garden Road, Central.

Present:	LEE Shing-see	(SSL)	Chairman
	James CHIU	(JC)	
	CHOI Chun-wa	(CWC)	
	Edgar KWAN	(EK)	
	TSE Chun-yuen	(CYT)	
	WAN Koon-sun	(KSW)	
	CHEUNG Tak-hing	(THC)	Construction Site Workers General Union
	Paul CHONG	(PC)	The Hong Kong Federation of Electrical and Mechanical Contractors
	Bernard HUI	(BH)	The Hong Kong Institute of Architects
	LAW Wai-tai	(WTL)	The Hong Kong Construction Association
	Lawrence NG	(LN)	Hong Kong Marble and Granite Merchants Association
	YAU Hung-yuen	(HYY)	Association of Electrical Contractors
	LEUNG Tak-fai	(TFL)	Development Bureau
	TSO Sing-hin	(SHT)	Labour Department
	FUNG Chi-keung	(CKF)	Water Supplies Department
In Attendance:	TAO Kei-hung	(KHT)	Development Bureau
	Rico CHEUNG	(RC)	Development Bureau
	MA Kut-chung	(KCM)	Buildings Department
	Kenny FOK	(KF)	Independent Commission Against Corruption
	Christopher TO	(CT)	Executive Director
	Ivan WONG	(IW)	Senior Manager (Council Services) 2
	Phoebe LEUNG	(PLG)	Manager (Council Services) 2
Apologies:	Teresa CHENG	(TC)	
	CHEUNG Tat-tong	(TTC)	
	Stanley HUI	(SH)	
	Conrad WONG	(CW)	
	YU Wai-wai	(WWY)	
	Ada FUNG	(AF)	for Permanent Secretary for Transport and Housing (Housing)

HUI Siu-wai	(SWH)	Buildings Department
LAI Chi-hung	(CHL)	Hong Kong Construction Industry Employees' General Union
Joseph NG	(JN)	Hong Kong General Building Contractors Association
C S SO	(CSS)	Henderson Land Development Co. Ltd.
WONG Sing-lam	(SLW)	Contractor's Authorized Signatory Association
Sonia YUNG	(SY)	Housing Department
MOK Wah-hoi	(WHM)	Independent Commission Against Corruption

PROGRESS REPORT

Action

7.1 Confirmation of the Progress Report of the 6th Meeting

Members took note of Paper CIC/SBC/R/006/08 and confirmed the progress report of the 6th meeting held on Wednesday, 17 September 2008 at Murray Building.

Noted

7.2 Matters Arising from the 6th Meeting

7.2.1 Service Agreement on the operation of Voluntary Subcontractor Registration Scheme (VSRS)

Updated under Agenda item 7.6.

Noted

7.2.2 Resources deployment for taking over the operations of VSRS

CIC at its 12th meeting held on 31 October 2008 endorsed the recruitment of additional staff (one manager and three clerical staff) to administer the VSRS operations and the renting of the existing VSRS office from the Hong Kong Construction Association (HKCA) as an interim measure. As to the new VSRS computer system, a detailed proposal would be submitted to the Committee on Administration and Finance for consideration in early 2009.

Noted

Action

7.2.3 Legal advice on maintaining PCICB Registration Limited

The findings would be reported to the Committee at the next scheduled meeting.

Noted

7.2.4 Survey on the problems of outstanding payments in the construction supply chain

Discussed under Agenda item 7.3.1.

Noted

7.2.5 Legal advice on the legality of managing escrow accounts for retention money by CIC

Updated under Agenda item 7.3.2.

Noted

7.2.6 Formation of a working group to set requirements and limits on each grade of the Register of Subcontractors under Stage 2 of VSRS

Updated under Agenda item 7.4.

Noted

7.2.7 Discussion of introducing the Enhanced Ethical Status (EES)

Members recalled that the Committee at its meeting held on 7 April 2008 agreed to introduce the EES to the VSRS as an additional requirement for all those registered subcontractors committed to the ethical standards on a voluntary basis. However, given that ICAC only targeted at those parties undertaking building maintenance works, some Members raised that applying the proposal to all subcontractors registered under the VSRS was not the exact intention of ICAC. In addition, such proposal would result in all subcontractors, not just building maintenance subcontractors, being fallen within the ambit of the EES which would cause unnecessary burden on non-building maintenance subcontractors. On the other hand, some Members opined that the alternative proposal of setting up a separate registration scheme for building maintenance subcontractors only was not acceptable as registration schemes administered by CIC should serve the industry as a

Action

whole instead of working for the good of only a particular group of stakeholders. As neither of the proposals could resolve the aforesaid concern, the Committee declined ICAC's proposal of introducing the EES to the VSRS.

Noted

7.3 Security of Payment

7.3.1 Formation of a Task Force on the Survey of Problems of Outstanding Payments in Construction Supply Chain (Task Force on the Survey)

Members took note of the Paper CIC/SBC/P/025/08 and agreed to form the Task Force on the Survey. A Member requested that the survey should cover main contractors and electrical and mechanical specialist contractors again in view of the recent abrupt changes in the business environment. Members agreed to extend the survey scope as requested. Members also made clear that such extension of the survey scope was not due to any doubt about the survey commissioned by HKCA but aimed to ensure consistence of survey findings and data compatibility for analysis in the existing volatile business environment. In case the budget approved by the Committee on Administration and Finance was exceeded, approval for additional budget would be sought.

Noted

[The membership and terms of reference of the Task Force on the Survey, having incorporated Members' comments, are at Annex A.]

7.3.2 Legitimacy of CIC to hold Escrow Accounts for Retention Money

Members took note of the Paper CIC/SBC/P/026/08. According to the legal advice, it would be legally feasible for CIC to hold escrow accounts for retention money subject to some legal arrangements during actual implementation.

Noted

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7.4 Formation of a Task Force on the Stage 2 VSRS

Members took note of the Paper CIC/SBC/P/027/08 and agreed to form the Task Force on the Stage 2 VSRS. Mr TSE Chun-yuen, the chairman of the Task Force, was requested to invite a few more members of Hong Kong Construction Subcontractors Association to join the Task Force with a view to gaining wider acceptance from subcontractors.

Noted

[The membership and terms of reference of the Task Force on the Stage 2 VSRS, having incorporated Members' comments, are at Annex B.]

7.5 Guidelines on Measures for Protection of Workers' Entitlement to Wage Payment

Members took note of the Paper CIC/SBC/P/028/08. In addition to the proposed outline, Members suggested considering the following when drafting the Guidelines –

- (a) Measures adopted by the Housing Department in addition to those by the Development Bureau;
- (b) Roles and functions played by officers for site personnel relationship;
- (c) Measures for ensuring payment of Mandatory Provident Fund contributions; and
- (d) Principal contractors' responsibilities for payments in arrears.

**CIC
Secretariat**

7.6 Service Agreement for Operation of the Voluntary Subcontractor Registration Scheme

Members took note of the Paper CIC/SBC/P/029/08 and thanked the HKCA for their support in the VSRS. The Secretariat would arrange two directors of the PCICB Registration Limited to sign on the agreement.

**CIC
Secretariat**

Action

7.7 Meeting Schedule for 2009

Members took note of the Paper CIC/SBC/P/030/08.

Noted

7.8 Any Other Business

A Member relayed a subcontractor's concern that the Labour Department conducted inspections on the 8th day after the end of wage period and enquired workers if the subcontractor failed to pay wages to them on time. Subcontractors commented that such acts might break harmonious labour relations. Other Members noted that the Employment Ordinance requires an employer to pay wages to an employee as soon as practicable but in any case not later than 7 days after the end of wage period. As such, the Labour Department only conducted inspections to enforce the wage provisions under the Employment Ordinance and subcontractors should fulfill their statutory obligation to pay wages on time.

Noted

7.9 Proposed Tentative Date of the Next Scheduled Meeting

13 January 2009 (Tuesday) at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong

All to note

There being no further business, the meeting adjourned at 4:00 pm.

Committee on Subcontracting

**Task Force on the Survey of
Problems of Outstanding Payments in Construction Supply Chain**

(A) Membership

1. Interested Members of the Committee on Subcontracting
2. Nominated members representing Developers, Consultants, Main Contractors, Specialist Contractors, Subcontractors, Suppliers and the Legal Profession, if any

(B) Terms of Reference

1. To assess the survey proposal submitted by the service provider and to make recommendation for consideration by the Committee
2. To define the scope and methodology of the survey
3. To endorse the design of questionnaires prepared by the service provider
4. To monitor and supervise the progress of the survey with a view to delivering the findings in a timely and suitable manner

Committee on Subcontracting

Task Force on the Stage 2 VSRS

(A) Membership

Mr TSE Chun-yuen (Chairman)
Mr Conrad Wong
Mr Lawrence Ng
Mr Kenneth Chan
Representatives of subcontractors

(B) Terms of Reference

1. To propose the entry requirements and limits for parameters of each trade of each grade under the Stage 2 VSRS with reference to the survey findings
2. To consider setting compliance with safety standards as one of the entry requirements
3. To formulate promotion and demotion mechanisms within the register
4. To consult stakeholders on the proposed requirements and finalize the requirements of each trade of each grade under the Stage 2 VSRS