

Construction Industry Council

Committee on Subcontracting

Meeting No. 004/13 of the Committee on Subcontracting for 2013 was held on 8 October 2013 (Tuesday) at 15:00pm at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

Present:	Mike WONG	(MW)	Chairman
	Anthony CHAN	(AnCN)	
	Paul CHONG	(PC)	
	Lawrence NG	(LN)	
	Derrick PANG	(DP)	
	Bay WONG	(ByW)	
	Peter CHOW	(PC)	for Permanent Secretary for Transport and Housing (Housing)
	Ricky LAI	(RL)	Independent Commission Against Corruption
	Ki-cheung TANG	(KCT)	The Hong Kong Institute of Surveyors
	Chun-yuen TSE	(CYT)	Hong Kong Construction Subcontractors Association
	Sing-lam WONG	(SLW)	Contractor's Authorised Signatory Association
	Sam-choi CHAN	(SCC)	Construction Site Workers General Union
	Arthur WONG	(AW)	Development Bureau
	Roger LAM	(MPL)	Water Supplies Department
Chi-leung LI	(CLL)	Labour Department	
In Attendance:	Eddy CHAN	(EC)	Mandatory Provident Fund Scheme Authority
	Timothy FU	(TF)	Mandatory Provident Fund Scheme Authority
	Ivan WONG	(IW)	Senior Manager – Council Services
	Chi-wai LAI	(CWL)	Manager - Council Services
	Ivan KO	(IK)	Manager - Council Services
Apologies:	Hau-wai CHEUNG	(HWC)	
	Wai-wai YU	(WWY)	
	Luen-kiu CHOW	(LKC)	
	Teresa CHENG	(TC)	
	Tat-tong CHEUNG	(TTC)	Chair of Working Group on the Review of the Implementation of the Dispute Resolution Mechanism
	Tommy LEUNG	(TLg)	Airport Authority Hong Kong

Bernard HUI	(BH)	The Hong Kong Institute of Architects
Alex CHOW	(KPC)	Building Department

PROGRESS REPORT

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4.1 Confirmation of the Progress Report of the 3rd Meeting for 2013

Members referred to Paper CIC/SBC/R/003/13.

With no further comments, Members confirmed the progress report of the previous meeting held on Tuesday, 9 July 2013 at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

4.2 Matters Arising from the Last Meeting

Item 3.2 The Secretariat would follow up the promotion of the specimen employment contract under the context of SRS.

Item 3.3 REDA had already nominated a representative to join the Working Group on the Review of the Implementation of the Dispute Resolution Mechanism.

Item 3.7 As no further comments were received from Members on the consultation documents, the Secretariat replied accordingly.

Item 3.8 The issues relating to SRS were covered in the Agenda Item 4.3 of the meeting.

4.3 Enhancements to Subcontractor Registration Scheme

Members took note of Paper CIC/SBC/P/016/13.

The Secretariat briefed Members on the paper and the proposed initiatives regarding the future development of the SRS.

After much deliberation on the initiatives, Chairman concluded that

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further discussion on the enhancements to the SRS was needed and a new task force for the enhancements to the SRS should be set up to take on the following actions:

- a. provide positive incentive (especially rewarding system) to encourage subcontractors' registration and wider adoption of the scheme in particular in private projects;
- b. categorise subcontractor into different classes but avoid building up high entry barrier;
- c. identify motives that could encourage subcontractor to upgrade themselves.

Mr. Eric TSE was invited to chair this Task Force. Mr. TSE would set out the Terms of Reference of this Task Force together with the Secretariat; and work with the Task Force to suggest initiatives for the consideration of the Committee.

**CIC
Secretariat**

4.4 Task Force on Standard Contract Provisions for Domestic Subcontracts

Members took note of Paper CIC/SBC/P/017/13, CIC/SBC/P/018/13, CIC/SBC/P/019/13, CIC/SBC/P/020/13.

The Task Force kept on the deliberation of members' comments given on the first draft of the standard form. After four numbers of Task Force meetings, half of the comments had been discussed.

4.5 Working Group on the Review of the Implementation of the Dispute Resolution Mechanism

Members took note of Paper CIC/SBC/P/021/13.

Amongst the five dispute resolution methods (Mediation, Adjudication, Independent Expert Certifier Review, Expert Determination, Short Form Arbitration), it was generally considered that the default option in the Dispute Resolution Mechanism of the CIC should be in line with the future Security of Payment legislation. As "Adjudication" would probably be adopted in the Security of Payment legislation, it was generally agreed that "Adjudication" could be taken as the default option.

About the default appointing bodies of the five dispute resolution methods, the views of the Working Group were summarised at

follows:

Mediation and Short Form Arbitration

Following existing practice, i.e. HKIAC as the default appointing body

Adjudication

DevB advised that default appointing authority would be discussed in its upcoming working group on Security of Payment legislation. Working Group members suggested concluding the default appointing authority later after the outcome of the working group's discussion.

[Post meeting notes: DEVB advises that the Working Group on SOP Legislation has reached general consensus on HKIAC as the default appointing body of adjudicators.]

Independent Expert Certifier Review and Expert Determination

It required comments from HKIA, HKIE and HKIS on the suggestion in the Reference Materials (i.e. HKIAC as the default appointing body) or suggestions from HKIA, HKIE and HKIS on the default appointing bodies for further discussion.

4.6 MPFA Briefing on New Contribution Calculation Method

Representative of MPFA delivered a presentation on the proposed amendments to the calculation of MPF contribution amount for those construction industry personnel under Industry Scheme.

[Paul CHONG left the meeting at this juncture.]

MPFA advised that the aforesaid amendment would be effective subject to legislation amendment to the relevant ordinance on 1st November 2013.

Members raised questions about the definition of “working day” and “income”. MPFA replied that the definition of “working day” is subject to mutual agreement between employer and employee; whereas, the definition of “income” is subject to the term “relevant income” as stipulated in the relevant ordinance.

4.7 Update on SRS Operations

Members took note of Paper CIC/SBC/P/022/13.

[Anthony CHAN left the meeting at this juncture.]

The Secretariat highlighted the following SRS operations update:

- a. A hearing of appeal by the Appeal Panel of the SRS was conducted on 24 July 2013.
- b. A hearing of regulatory actions by the Management Committee was conducted on 24 September 2013 involving four Registered Subcontractors all related to fatal accidents.
- c. The West Kowloon Cultural District Authority was approached on 21 August 2013 to solicit their support for using SRS in their project(s) and positive feedback had been received.

4.8 Tentative Work Plan for Year 2014

Members took note of Paper CIC/SBC/P/015/13.

This paper had been circulated on 19th August 2013 for Members' comment. Members had no comments on the tentative work plan for year 2014 in principle. This work plan for year 2014 would be subject to further review and change during the course of its execution.

4.9 Tentative Meeting Schedule for Year 2014

Members took note of Paper CIC/SBC/P/023/13.

Members were invited to take note of the meeting schedule for 2014. The Secretariat will issue meeting notice prior to the meetings as usual.

4.10 Any Other Business

HKCA expressed concern on the underspecified salary in the employment contract of workers that resulted in the construction price index not reflecting the true cost of the workforce. Members considered that this Committee was not the appropriate forum for discussing this issue relating to the procurement arrangement in main contracts and suggested HKCA raising this item in Committee on Procurement.

4.11 Tentative Date of the 1st Meeting for 2014

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21 January 2014 (Tuesday) at 2:30pm at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong. **All to note**

There being no further business, the meeting was adjourned at 5:15pm.