

## Construction Industry Council

### Committee on Subcontracting

Meeting No. 003/13 of the Committee on Subcontracting for 2013 was held on 9 July 2013 (Tuesday) at 2:30pm 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)	
	Teresa CHENG	(TC)	
	Paul CHONG	(PC)	
	Luen-kiu CHOW	(LKC)	
	Lawrence NG	(LN)	
	Derrick PANG	(DP)	
	Bay WONG	(ByW)	
	Nelson CHAN	(NC)	Independent Commission Against Corruption
	Tommy LEUNG	(TLg)	Airport Authority Hong Kong
	Ki-cheung TANG	(KCT)	The Hong Kong Institute of Surveyors
	Chun-yuen TSE	(CYT)	Hong Kong Construction Subcontractors Association
	WONG Sing-lam	(SLW)	Contractor's Authorised Signatory Association
In Attendance:	Ringo MOK	(WCM)	Development Bureau (Representing Arthur WONG)
	Roger LAM	(MPL)	Water Supplies Department
	LI Chi-leung	(CLL)	Labour Department
	Ivan WONG	(IW)	Senior Manager – Council Services
	Ivan KO	(IK)	Manager - Council Services
	Shirley LEE	(SyL)	Manager - Council Services
Apologies:	Hau-wai CHEUNG	(HWC)	
	Wai-wai YU	(WWY)	
	CHEUNG Tat-tong	(TTC)	Chair of Working Group on the Review of the Implementation of the Dispute Resolution Mechanism
	Sam-choi CHAN	(SCC)	Construction Site Workers General Union
	Bernard HUI	(BH)	The Hong Kong Institute of Architects
	Ada FUNG	(AF)	for Permanent Secretary for Transport and Housing (Housing)
	Alex CHOW	(KPC)	Building Department

## PROGRESS REPORT

### Action

#### 3.1 Confirmation of the Progress Report of the 2<sup>nd</sup> Meeting for 2013

Members referred to Paper CIC/SBC/R/002/13.

With no further comments, Members confirmed the progress report of the previous meeting held on Tuesday, 16 April 2013 at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

#### 3.2 Matters Arising from the Last Meeting

Item 2.2.2 Suggested by a Member, the Secretariat would study how the specimen employment contract could be promoted for wider adoption among Registered Subcontractors for their employees.

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Other matters arising from the previous meeting would be covered at the later part of the meeting.

#### 3.3 Working Group on the Review of the Implementation of the Dispute Resolution Mechanism

As the Chair of the working group, Mr. Cheung Tat-tong was invited to be a Co-opted Member of the committee with immediate effect.

Reported by IW, Members received a brief progress report of the working group covered in Paper CIC/SBC/P/009/13.

As requested by Members, the Secretariat would contact REDA again to seek nomination for a representative to serve the working group as member representing employer from private sector.

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#### 3.4 Task Force on the Adoption of Dispute Resolution Advisor System to the Subcontract

ByW reported the discussion of the first task force meeting covered in Paper CIC/SBC/P/010/13.

The Secretariat clarified that the task force was formed to deliberate and review the feasibility of introducing DRA system in the subcontract level, therefore REDA was not being invited to participate in the task force as DRA had not even been adopted in the main contract level of private sector.

The Contractor's Authorised Signatory Association was invited to submit a nomination if they could take part in the work of the task force.

### **3.5 Update on the Working Group on Security of Payment Legislation for the Construction Industry**

Members referred to Annex A of Paper CIC/SBC/P/011/13.

Updated by WCM, ten meetings had been held to discuss over 40 major issues since the establishment of the Working Group on Security of Payment Legislation for the Construction Industry in October 2012. A number of controversial issues would be brought up for further deliberation in the next round of discussion. It was anticipated that discussion within the Working Group would be completed in late 2013 followed by a public consultation in early 2014. DEVB targeted at introducing the bill to the Legislative Council in 2015 – 2016.

### **3.6 Update on SRS Operations**

Reported by IW, Members received a brief update on SRS operations covered in Paper CIC/SBC/P/012/13.

In view of the high attendance rates of the previous sessions and enhancing interaction with stakeholders, the Secretariat would continue to organise briefing session on a monthly basis to keep subcontractors abreast of the requirements for the registration scheme. The hearing of regulatory action would be organised once every quarter.

The following key issues in the paper were particular highlighted:

- An appeal against the decision of the Management Committee on the regulatory action was lodged by a Registered Subcontractor who had been convicted by the court of late payment of MPF contributions. An independent appeal panel comprised three representatives appointed by the CIC Chairman was formed to review the Management Committee's decision on the regulatory action.

*[PC joined the meeting at this juncture.]*

- Mr. Gilbert HC Tsang was nominated by the HKFEMC as a member of the Management Committee to replace Mr. C K Tsang who had resigned his membership of the Management Committee. With no further comments from Members, the Secretariat would proceed with the appointment process in accordance with the rules and procedures of SRS.

As a statutory body, a Member reminded the Secretariat to be prudent in the execution of the current rules and procedures of SRS to avoid arousing strong opposition or seeking judicial review. The Chairman responded that the Management Committee has been adopting a prudent way in handling the SRS.

### **3.7 Items for Consultation**

#### **3.7.1 Consultation on the Guidelines for Disclosure of Mediation Communications under s.8(2)(e) of the Mediation Ordinance Cap.620**

Covered in Paper CIC/SBC/P/013/13, IW briefly introduced the objectives of the consultation.

In response to an enquiry on the need of mutual consent before the disclosure of a mediation communication was made for research, evaluation or educational purposes, a Member opined that the exemption should be provided for the situation of disclosure without the need of prior consent of either party.

Suggested by Chairman, the Secretariat would send an email inviting all members of the committee to submit comments or queries on or before 16 August 2013. All comments or queries received would be collated into a single document and circulated to Members by email before the submission deadline (i.e. 16 September 2013). A special meeting would be convened, if necessary, to review the comments before submitting to the Department of Justice.

3.7.2 Consultation on HKMAAL Accreditation Standards for General Mediators

IW went through the Paper CIC/SBC/P/014/13 presenting a set of documents prepared by HKMAAL in respect of the accreditation standards, procedures and documentation which set out the requirements for general training courses, the core competencies of mediators, and the criteria by which mediators would be accredited by HKMAAL.

In response to a Member's query about the role and function of HKMAAL in comparison with other organisations currently conducting mediation training and accreditation, the Secretariat advised that HKMAAL was incorporated by four founding members, viz., The Hong Kong Bar Association, The Hong Kong Law Society, Hong Kong International Arbitration Centre and Hong Kong Mediation Centre with an aim of setting standards for accreditation of mediators and assessors. To understand more about the background, role and function of HKMAAL, in relation to organisations currently accrediting mediators, the Secretariat was requested to find out and provide Members with more details.

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*[PMN: The HKMAAL has come into operation in April 2013 to collate a set of accreditation standards and guidelines. The HKMAAL will not conduct training, it will conduct accreditation assessment only.*

*The organisations currently providing mediators' training in Hong Kong are expected to continue their training. By now, there is no statutory provision regulating accreditation of mediators in Hong Kong, and the HKMAAL is not by law the only accreditation body for mediators. So it is open for all current accreditation bodies to continue the accreditation of mediators. It is up to these organisations to decide*

*whether or not to join the HKMAAL as members.*

*Nevertheless, it is understood that the government prefers an industry-led accreditation body to be established for mediators. To adopt a standardised accreditation system to enhance public confidence in mediation services, various bodies adopting its own training and accreditation criteria in Hong Kong will be invited to join HKMAAL as members with the fact that a body which joins the Association will have to give up its own existing accreditation system and service.]*

### **3.8 Any Other Business**

To prepare the work plan for 2014, Members were invited to suggest issues/concerns that needed to be addressed or studied by the committee next year.

Members commented that the scope of work and the terms of reference of the SRS should be reviewed to enhance the role and function of the registration scheme. More careful thought and consideration should be given, particularly under the aspect of regulatory actions to be taken by the Management Committee. In this regard, Chairman opined that it might be necessary to re-activate the task force to conduct a comprehensive review of the mechanism and regulatory actions of the SRS.

Chairman revealed that a retreat among CIC Members would be organised shortly. All council members would be invited to attend to brainstorm, to generate new ideas and to come up with insights and creative solutions to problems.

### **3.9 Tentative Date of the 4<sup>th</sup> Meeting for 2013**

8 October 2013 (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 4:14pm.