

Construction Industry Council

Committee on Subcontracting

Meeting No. 004/11 of the Committee on Subcontracting for 2011 was held on 2 September 2011 (Friday) at 2:30pm at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

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|----------------|-----------------|--------------------|---|
| Present: | Mike WONG | (MW) | Chairman |
| | Teresa CHENG | (TC) | |
| | Hau-wai CHEUNG | (HWC) | |
| | Luen-kiu CHOW | (LKC) | |
| | Peter Oi-ki LAM | (OKL) | |
| | Conrad WONG | (CW) | |
| | Kam-hung YU | (KHY) | |
| | Sam-choi CHAN | (SCC) | Construction Site Workers General Union |
| | Lawrence NG | (LN) | Hong Kong Marble and Granite Merchants Association |
| | Chun-yuen TSE | (CYT) | Hong Kong Construction Subcontractors Association |
| | Paul CHONG | (PC) | The Hong Kong Federation of Electrical and Mechanical Contractors |
| | Bernard HUI | (BH) | The Hong Kong Institute of Architects |
| | Ki-cheung TANG | (KCT) | The Hong Kong Institute of Surveyors |
| Chau-fat CHAN | (CFC) | Development Bureau | |
| In Attendance: | Kevin POOLE | (KP) | Representing Stanley HUI |
| | Anthony CHAN | (AnCN) | Hong Kong General Building Contractors Association |
| | Sonia YUNG | (SY) | Housing Department (Representing Ada FUNG) |
| | C.K. CHEUNG | | Independent Commission Against Corruption |
| | Sek-yiu KWAN | (SKW) | Water Supplies Department |
| | Ivan WONG | (IW) | Senior Manager (Council Services) |
| | Shirley LEE | (SyL) | Manager (Council Services) |
| Apologies: | Stanley HUI | (SH) | |
| | Koon-sun WAN | (KSW) | |
| | Wai-wai YU | (WWY) | |
| | Sing-lam WONG | (SLW) | Contractor's Authorized |

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| David CHAN | (NSC) | Signatory Association Hong Kong Construction Association |
| Ada FUNG | (AF) | Permanent Secretary for Transport and Housing (Housing) |
| Alex CHOW | (KPC) | Building Department |
| TSO Sing-Hin | (SHT) | Labour Department |
| Nelson CHAN | (NC) | Independent Commission Against Corruption |

PROGRESS REPORT

Action

4.1 Confirmation of the Progress Report of the Previous Meeting

Chairman welcomed Mr. Anthony CHAN to join the committee as a Co-opted Member to replace Mr. Joseph NG.

Members took note of Paper CIC/SBC/R/003/11 and confirmed the progress report of the previous meeting held on Tuesday, 24 May 2011 at Meeting Room 1, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

4.2 Matters Arising from the 3rd Meeting for 2011

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

4.3 Task Force on Dispute Resolution Documentation

Members took note of the Papers CIC/SBC/P/022/11 and CIC/SBC/P/023/11.

TC, the Task Force Chairman, reported that the adjudication rules had been simplified to make them much more effective and facilitate fast resolutions to the construction problems.

The attention of Members were brought to two major outstanding issues to be further discussed at the upcoming meetings:

- The proposition of default option if parties could not reach consensus on choosing any one of the dispute resolution methods.
- The exclusion of liability under the expert determination

rules.

The preliminary report was expected to be completed and presented to the Committee by end of this year.

4.4 **Task Force on Security of Payment Legislation**

Members took note of the Paper CIC/SBC/P/024/11.

BH, the Task Force Chairman, reported the progress of the survey on payment practice. The survey, which began in April 2011 was more or less completed. A progress update would be made by the DevB at the next scheduled meeting on 8 September 2011. The preliminary report was expected to be released in October 2011.

BH highlighted that the survey would provide useful results for the consideration of the task force when formulating its recommendations of practical solutions to address payment problems prevalent in the construction industry, including administrative and legislative measures. To be well prepared for the possible enactment of the new law, the task force would continue to discuss the key elements of the legislation at the upcoming meetings.

4.5 **Task Force on Standard Contract Provisions for Domestic Subcontracts**

Members took note of the Papers CIC/SBC/P/025/11, CIC/SBC/P/026/11 and CIC/SBC/P/027/11.

Out of a total of twelve chapters, KCT briefed Members that the task force had completed the discussion of nine chapters and had just started the deliberation of chapter ten. Members had reached consensus on the most controversial issues and subsequent clauses would be far more straightforward. It was anticipated that the deliberation of the last three chapters (i.e. Chapters 10 – 12) would be completed in the next three meetings and the overall review would take up to five more meetings before a complete draft standard contract was ready for submission to the Committee. Members who were interested in reading the working draft of the contract clauses could access the document from the link below.

<http://www.kctang.com.hk/dscwiki/%E5%90%88%E5%90%8C>

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4.6 **Discussion of the Strengths of Hong Kong Construction Industry**

Members took note of the Paper CIC/SBC/P/028/11.

Briefed by the Secretariat, to follow up the discussion of international collaboration strategy at the 1st Strategic Planning Steering Committee (SPSC) meeting in April 2011, respective committees were requested to identify the strengths of Hong Kong construction industry with a view to compiling a report on enhancing Hong Kong-Mainland collaboration and creating new business opportunities for Hong Kong's construction industry.

The following comparative strengths and advantages had been identified for Hong Kong's construction industry.

From industrial perspective:

- Excellent project management skills and services to ensure that the job is completed on time with high quality and in accordance with the project budget;
- Hong Kong offers solid management expertise and quality products as well as substantially high productivity which offset a relatively high level of wages of Hong Kong construction practitioners;
- Hong Kong offers one-stop professional services of consultation, construction, quality control, supervision and management services;
- Hong Kong has comparative advantage over China in doing foreign direct investment projects.

From the perspective of soft power:

- Hong Kong professionals are fully aware of the values and principles and maintain a high level of ethical standards and best practices which are driven by professionalism rather than the law;
- The high level of integrity, credibility and quality of the Hong Kong society as a whole give confidence to the users of Hong Kong's construction services;
- As one of the major cities in China, Hong Kong has a higher respect for the contractual and legal obligations during the execution of works;
- The fluency in written and spoken Chinese and English of

Hong Kong professionals.

4.7 Task Force on Voluntary Subcontractor Registration Scheme Stage 2

Members took note of the Paper CIC/SBC/P/029/11.

CYT, the Task Force Chairman introduced the new arrangements to strengthen the regulatory action against breach of MPFSO.

Members supported the proposition of allocating two places for “Trade Union” sector in an attempt to enhance the recognition of VSRS amongst various stakeholders. Nonetheless, the trade union members had to be mindful of potential conflicts of interest with the disputed cases between workers and subcontractors. Management Committee Members would be required to declare interest when they involved in related cases.

With the participation of trade union, the size of the management committee would be expanded to 11 members plus the Chairman. The quorum would remain at three (i.e. the Chairman plus two members regardless the sectors) in order to maintain a high efficiency of operation.

While it was decided that the new composition of the Management Committee would be implemented together with the VSRS Stage 2, Members shared the same opinion that the new structure should begin official operations as early as possible without waiting for the VSRS Stage 2 of which the launch date had not been fixed yet. The proposed amendment to the composition would be submitted to the Council for approval at the next CIC Meeting in October 2011.

**CIC
Secretariat**

As a reminder, a Member pointed out that the deliberation and confidential information, in any format, was not to be divulged outside of the Management Committee.

4.8 Update on VSRS Operations

Members took note of the Paper CIC/SBC/P/030/11.

The Secretariat updated Members on the number of applications received and processed over the past four months.

Action

After the implementation of shorter turnaround time “2+6” weeks, Chairman advised that the work efficiency had been enhanced and the application approval backlog had been cleared up.

Regarding the Regulatory Action relating to safety accidents, the Management Committee would tackle the fatal accident related cases first given they would be less complicated and would keep investigating the practicality of handling the serious bodily injury cases.

4.9 Any Other Business

Nil.

4.10 Date of Next Meeting for 2011

Next meeting was scheduled for 22 November 2011 (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 4:05pm.