

Construction Industry Council

Committee on Subcontracting

Meeting No. 002/11 of the Committee on Subcontracting for 2011 was held on 8 March 2011 (Tuesday) at 2:30pm at Room 1201, Murray Building, Central, Hong Kong

Present:	Mike WONG	(MW)	Chairman
	Luen-kiu CHOW	(LKC)	
	Peter Oi-ki LAM	(OKL)	
	Conrad WONG	(CW)	
	Kam-hung YU	(KHY)	
	Wai-wai YU	(WWY)	
	David CHAN	(NSC)	Hong Kong Construction Association
	Sam-choi CHAN	(SCC)	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
	Lawrence NG	(LN)	Hong Kong Marble and Granite Merchants Association
	Ki-cheung TANG	(KCT)	Hong Kong Institute of Surveyors
	Chun-yuen TSE	(CYT)	Hong Kong Construction Subcontractors Association
	Chau-fat CHAN	(CFC)	Development Bureau
Kenny FOK	(KF)	Independent Commission Against Corruption	
In Attendance:	Kelvin POOLE	(KP)	Representing Stanley HUI
	SUEN Kwok-keung		Water Supplies Department (Representing KWAN Sek-yiu)
	Sonia YUNG	(SY)	Housing Department (representing Ada FUNG)
	TSO Sing-Hin	(SHT)	Labour Department
	Saxon WENG		Mandatory Provident Fund Schemes Authority
	Timothy FU		Mandatory Provident Fund Schemes Authority
Ivan WONG	(IW)	Senior Manager (Council Services) 2	
Shirley LEE	(SyL)	Manager (Council Services) 5	

Apologies:	Teresa CHENG	(TC)	
	Hau-wai CHEUNG	(HWC)	
	Stanley HUI	(SH)	
	Koon-sun WAN	(KSW)	
	Joseph NG	(JN)	Hong Kong General Building Contractors Association
	Sing-lam WONG	(SLW)	Contractor's Authorized Signatory Association
	Ada FUNG	(AF)	Permanent Secretary for Transport and Housing (Housing)
	Alex CHOW	(KPC)	Building Department
	Sek-yiu KWAN	(SKW)	Water Supplies Department

PROGRESS REPORT

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2.1 Confirmation of the Progress Report of the Previous Meeting

Members took note of Paper CIC/SBC/R/001/11 and confirmed the progress report of the previous meeting held on Friday, 7 January 2011 at Conference Room 1, 42/F Sun Hung Kai Centre, 30 Harbour Road, Hong Kong.

2.2 Matters Arising from the 1st Meeting for 2011

2.2.1 Task Force on Security of Payment Legislation

The Secretariat briefed Members on the latest progress of the industry-wide survey on payment practice conducted by the Development Bureau. Questionnaire had been finalised and training would be provided for the front-line interviewers to collect accurate and useful information from selected samples for devising practical solutions to improve the payment practice in construction industry. Members of Hong Kong Construction Association and The Hong Kong Federation of Electrical and Mechanical Contractors had volunteered to provide assistance in the training sessions for the interviewers.

2.2.2 Proposed Improvements for VSRS Operations

Discussed under agenda item 2.6

2.2.3 Mandatory Provident Fund Issue

Discussed under agenda item 2.3

2.2.4 Voluntary Supplier Registration System

The issue was discussed at the CIC meeting and no further action for the Committee was necessary.

2.3 Mandatory Provident Fund

Members were introduced by the representatives from the Mandatory Provident Fund Schemes Authority (MPFA) on the industry schemes specifically designed for the site personnel who were employed for a fixed period of fewer than 60 days. Members in general commented that the calculation of MPF contributions should be simplified to minimise the administrative costs and to avoid ambiguity and confusion causing unnecessary disputes with workers. To recapitulate the comments from respective Members, three calculation methods were proposed:

- i) based on the current daily paid principle by using contribution table;
- ii) to set a 2-tier contributions with reference to daily wages; or
- iii) to determine only one fixed sum of daily contribution.

MPF representatives would help to relay Members' suggestions to MPFA's Regulation and Policy Division.

Furthermore, MPF representatives would help to bring up the issue for deliberation at the upcoming meeting with Development Bureau concerning individual worker employed at more than one construction sites were often unable to provide proper MPF contribution records.

A Member enquired about the feasibility for main contractors to take liability of the first two months' outstanding MPF contribution for employees of subcontractors. It was pointed out that there was no provision under the MPF Schemes Ordinance imposing such obligation to main contractors. There was also practical difficulty in implementing such proposal as the main contractors might not have the MPF accounts with the same

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**Task Force
on VSRS
Stage 2**

trustees as the subcontractors for making contribution of two months' outstanding MPF to the workers. The Committee requested the Task Force on VSRS Stage 2 to consider administrative measures to combat the problem of subcontractors failing to make MPF contribution to workers.

2.4 Task Force on Standard Contract Provisions for Domestic Subcontracts (TF-SCDS)

Members took note of the Paper SBC/SCDC/R/001/11.

Chairman invited KCT, the chairman of the Task Force to update Members on the latest progress.

KCT briefed Members on the progress of discussion on clause 6 "Prices". This clause being discussed at the 8th meeting was fairly controversial and it was expected that the deliberation would be completed at the next meeting. KCT reported that good progress was seen with the ongoing work as subsequent clauses would be relatively straightforward.

A Member indicated that some administrative measures to improve the provision of standard contract relating to security of payment would be proposed at the next meeting.

The Secretariat shared with Members that a number of local media had expressed interest in this subject matter at the CIC press briefing attended by the Chairman.

2.5 Task Force on Voluntary Subcontractor Registration Scheme Stage 2 (TF- Stage 2 VSRS)

Members took note of the Paper CIC/SBC/P/013/11 and its annexes.

Chairman invited CYT, the chairman of the Task Force, to update Members on the latest progress followed by supplementary information provided by the Secretariat on the composition of the VSRS Management Committee. The new composition of the Management Committee for the VSRS Stage 2 was proposed by adding a Management Committee member to be nominated by the Hong Kong Construction Sub-Contractors Association, one member to be nominated by MTRC or AAHK to replace the one nominated by Hong Kong Clients Forum and a

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new member to be nominated by Labour Department.

In response to the concern about a possible conflict of interest if Labour Department was invited as member of the Management Committee. Members generally expressed that it was appropriate for the Labour Department to be involved in the registration approval procedures and regulatory hearing to serve as a neutral party to balance any inevitable conflict of interest among members of Management Committee from different sectors of the industry.

The Secretariat also updated Members on the revised fees and charges for the VSRS Stage 2.

In reply to the enquiry about the establishment and composition of the Management Committee, Members were advised to contact the Secretariat for information.

Some Members had concern on including non-convicted cases of non-payment of wages in regulatory action. CYT explained that only lenient regulatory action would be imposed for non-convicted cases, i.e. the most serious regulatory action was to suspend the registration for a maximum period of three months and would not revoke the registration. Chairman reiterated that the Management Committee had no authority to suspend subcontractor's works nor right to submit tenders, it was entirely the administrative measures adopted by the project clients. For that reason, a Member stressed the importance of getting the message across unambiguously and suggested regulatory actions taken should be publicised on the VSRS's website. A Member proposed to refrain from using the term "penalty" to minimise any negative impression the industry might otherwise have towards the scheme.

Members generally supported the proposed improvements to VSRS Stage 2 but emphasised the importance of striking the right balance between the level of regulatory action and the impact to the industry to avoid mistakenly accuse those small-sized subcontractors who had blundered into the circumstances of late payment of wages and MPF contribution.

**CIC
Secretariat**

In response to a Member's enquiry about the display of registration particulars on the VSRS website, the Secretariat would seek clarification from legal adviser.

2.6 Updates on VSRS Operations

Members took note of the Paper CIC/SBC/P/014/11.

The Secretariat updated Members on VSRS operations, including the latest number of applications, relocation of VSRS registration office, the implementation of shorter turnaround time “2+6” weeks on 1 March as well as the organisation of the first briefing session on 8 April 2011.

2.7 Any Other Business

To get useful information for the formulation of practical measures to improve payment practice in the construction supply chain, a Member solicited support from industry practitioners to actively participate in the survey with face-to-face interviews to be conducted in March to April 2011 as mentioned in Paragraph 2.2.1 above. **All to note**

2.8 Date of Next Meeting for 2011

Next meeting was scheduled for 24 May 2011 (Tuesday) at 2:30 pm at new CIC Secretariat office in Wan Chai. **All to note**

There being no further business, the meeting was adjourned at 4:50pm.