

Construction Industry Council

Committee on Subcontracting

Meeting No. 001/11 of the Committee on Subcontracting for 2011 was held on 7 January 2011 (Friday) at 2:30 pm at Conference Room 1, 42/F, Sun Hung Kai Centre, 30 Harbour Road, Hong Kong.

Present:

Mike WONG	(MW)	Chairman
Hau-wai CHEUNG	(HWC)	
Luen-kiu CHOW	(LKC)	
Peter Oi-Ki LAM	(OKL)	
Koon-sun WAN	(KSW)	
Conrad WONG	(CW)	
Kam-hung YU	(KHY)	
Wai-wai YU	(WWY)	
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
Joseph NG	(JN)	Hong Kong General Building Contractors 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:		
Tommy K Y LEUNG	(KYL)	representing Stanley HUI
Sek-yiu KWAN	(SKW)	Water Supplies Department
Sonia YUNG	(SY)	Housing Department (representing Ada FUNG)
Joseph MAK	(JM)	Housing Department
Christopher TO	(CT)	Executive Director
Ivan WONG	(IW)	Senior Manager (Council Services) 2
Dr Guiyi LI	(GYL)	Senior Manager (Research)
C W LAI	(CWLa)	Manager (Council Services) 4

Apologies:	Teresa CHENG	(TC)	
	Stanley HUI	(SH)	
	Ada FUNG	(AF)	for Permanent Secretary for Transport and Housing (Housing)
	David CHAN	(NSC)	Hong Kong Construction Association
	Sing-lam WONG	(SLW)	Contractor's Authorized Signatory Association

PROGRESS REPORT

Action

1.1 Confirmation of the Progress Report of the Previous Meeting

Members took note of Paper CIC/SBC/R/003/10 and confirmed the progress report of the previous meeting held on Tuesday, 10 August 2010 at Room 1201, Murray Building, Central, Hong Kong.

1.2 Matters Arising from the 3rd Meeting for 2010

1.2.1 Task Force on VSRS Stage 2

Further discussion on the VSRS Stage 2 would be arranged and reported to the Committee in due course.

[PMN: the meeting of the Task Force on VSRS Stage 2 was scheduled for 23 February 2011 at 9:30 p.m., 16/F, Conference Room, No. 182 Hennessy Road, HKCA Building]

1.2.2 Task Force on Dispute Resolution Documentation

Discussed under Agenda Item 1.5

1.2.3 Task Force on Security of Payment Legislation

Discussed under Agenda Item 1.4

1.3 Key Performance Indicators for Construction Industry

Members took note of the Paper CIC/SBC/P/020/10.

The Chairman stated that most of the Members would have been

Action

aware of the matter through the presentation on introducing and collecting views on the proposed Key Performance Indicators made on 9 November 2010 or through the same presentation at other Committees meetings, there was no need to repeat the same presentation at the meeting whereas the presentation materials were included in the Paper.

While there were no comments noted at the meeting, the Chairman reminded Members to write to the Secretariat should there be any further comments on the matter.

All to note

[GYL left at this juncture]

1.4 Task Force on Security of Payment Legislation (TF-SPL)

Members took note of the Paper CIC/SBC/P/002/11

The Chairman invited BH, the chairman of the Task Force, to update Members on the progress of the Task Force.

BH briefed Members on the background and elaborated the Task Force's in-principle recommendation to go ahead with the Further Survey by Census & Statistics Department (C&SD) and its consultant through interviews with selected samples of industry participants at no cost to CIC subjected to constant reports to and associated comments of the Task Force. BH supplemented that the Further Survey would aim to identify the magnitude of the outstanding payment problems and to gather views on possible legislation, being one of the possible remedial measures, should it be considered necessary. The Terms of Reference of the Task Force was amended to include the study for legislative measures as set out in the Paper.

A Member requested that the sampling model and mechanism as proposed by the C&SD should be reported to the Committee in early stage so as to allow Members to render assistance in getting responses from respective trade associations / unions.

A Member suggested studying relevant information from the decision of dispute resolution cases in relation to the subject matter. It was acknowledged that it was difficult to obtain the judgments of arbitrations given the privacy nature of the dispute resolution mechanism.

A Member also suggested including in the study for hidden cost

incurred by different parties of the supply chain as a result of payment problems.

After much deliberation, Members agreed to the revised Terms of Reference of the Task Force and endorsed the recommendation to proceed with the Further Survey to be taken by the C&SD.

1.5 Task Force on Standard Contract Provisions for Domestic Subcontracts (TF-SCDC)

Members took note of the Papers CIC/SBC/P/003/11, CIC/SBC/P/004/11, CIC/SBC/P/005/11 and CIC/SBC/P/011/11.

The Chairman invited KCT, the chairman of the Task Force, to update Members on the progress of the Task Force. KCT reported that six meetings had been held and attended by representatives from trade associations and professional institutions with active comments raised and discussed at the meeting. The current progress would be a bit delayed but it was still targeted to complete by the end of 2011.

A Member enquired about the extent of application of the standard contract in lower tier sub-contracts. KCT explained the standard form of sub-contract would firstly cater for the first tier sub-contracts which should be usable for the lower tier sub-contracting except the basic trades undertaken by less sophisticated tradesmen. It would then be cascaded down to basic trades with necessary simplifications in future and if considered necessary.

The Chairman expressed his appreciation of the efforts made by KCT and the members of the Task Force given the tedious and complicated nature of the drafting works and looked for continuous supports from the Members.

1.6 Task Force on Dispute Resolution Documentation (TF-DRD)

Members took note of the Papers CIC/SBC/P/006/11 and CIC/SBC/P/007/11.

The Secretariat briefed the Members on the progress of Task Force and reported that the framework of the tasks to be completed by the Task Force would cover Dispute Resolution

Adviser (DRA) in addition to the various Dispute Resolution Mechanism as original contemplated.

A Member enquired about whether the study for adoption of DRA system would be appropriate for this Committee since the DRA system had rarely been adopted in domestic sub-contracts. Members exchanged views on the issue and acknowledged that the task was assigned to the Committee by the CIC Council as follow-up works after the issuance of the Dispute Resolution Guidelines and thus the Committee had the necessary mandate to carry out the work. Members were informed that the setting-up of a “Strategic Committee” was under considered in order to better articulate the works among different Committees.

Without further comments noted, it was deliberated that the Task Force should continue with the works in accordance with the amended Terms of Reference.

1.7 Updates on Current Status & Proposed Improvements for VSRS Operations

Members took note of Paper CIC/SBC/P/008/11.

The Secretariat briefed Members on the background, operation system, current status and proposed improvements for VSRS operations. It was highlighted that the number of VSRS applications had been increased over the past year by 50% and difficulties were encountered in processing the applications. The Secretariat had worked overtime and recruited temporary staff to speed up the processing and backlogs were clear. To meet the expectation of the industry stakeholders for a shorter turnaround time in processing the application, the Secretariat proposed certain improvements including streamlining the internal operations, enhancing communications with applicants, recruiting part-time staff and enhancing the out-dated computer system with a view to shortening the process time frame from existing 13 weeks to “2+6” weeks as set out at Annex A.

A Member considered the 8-week turnaround time was still too long. The Secretariat explained that the turnaround time depended on the quality of submission which was beyond the control of the Secretariat. However, the Secretariat would organise briefing sessions to sub-contractors to help improve the quality of submission. Members generally agreed that the proposed timeline could be a starting point. Depending on the

Action

feedback from the stakeholders after implementing the new turnaround time, the Committee and the Secretariat would then review if further improvement had to be made. Members agreed to submit the proposal to the CIC Council for approval.

Some Members also suggest considering the following:

- 1) Issue reminder letters for renewal earlier (currently being 12 weeks in advance);
- 2) Extend the renewal intervals from 2 years to say, 5 years. Some other Members however had reservation on the suggestion;
- 3) Review the standing list of membership for the Management Committee of VSRS in view of better spreading of workload among members; and
- 4) Provide breakdown of the statistics for new and renewal applications.

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1.8 Tentative Meeting Schedule for Year 2011

Members took note of Paper CIC/SBC/P/009/11.

1.9 Five Year Plan

Members took note of Paper CIC/SBC/P/010/11.

1.10 Any Other Business

A. Mandatory Provident Fund (MPF) Issue

The CIC Secretariat briefed Members on the background that there had been enquiries made at the CIC Council Meeting on 5 November 2010 concerning the following two issues about the MPF and this Committee was asked to study further:

- under the Employment Ordinance, the principal contractors would be liable for the first two months' unpaid wages of an employee who was employed by the subcontractor in case of its failure to pay wages. However, default mandatory provident fund (MPF) contributions by subcontractors were not subject to similar treatments under the MPF Ordinance;
- the calculation of MPF contribution for non-daily wage payment of temporary employees was very complicated.

The Secretariat met with representatives from the MPFA on 22 December 2010 and got an initial understanding about the issues. In view of the complexity and the necessary change of

Action

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legislation be involved, it was deliberated to invite representatives from the MPFA to give a short presentation at the next Committee meeting for further considerations by Members.

B. Voluntary Supplier Registration System

Members took note of Paper titled “Voluntary Supplier Registration System” submitted by the Housing Department

The representatives from Housing Department briefed Members on the background and benefits of their proposal of requesting CIC to set up a Voluntary Supplier Management System, which could be amalgamated with the VSRS.

Members affirmed the intention of the proposed system but expressed the following concerns:

- 1) It was very difficult to define the assessment criteria for registration.
- 2) The degree and details of scrutiny required would need very careful considerations and balance with the great amount of resources need to be committed. If the entry requirement was loose, the list was nothing more than “yellow page” (commercial directory). However the entry requirement was high, it would create entry barriers to smaller product suppliers and manufacturers as the registration cost would be very high for such detailed assessment.
- 3) Resources implication to the CIC would be very great.
- 4) There would be overlapping with the product certifications of Hong Kong Accreditation Service;
- 5) The issue would also need the inputs & views from different major interests groups in addition to sub-contractors being looked after by the Committee.

Members considered that it was not appropriate for the Committee alone to take up the task given that the issues covered various stakeholders and the enormous resources commitment. Instead, it should be escalated to the CIC Council for consideration.

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1.11 Tentative Date of Next Meeting for 2011

8 March 2011 (Tuesday) at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong

All to note

There being no further business, the meeting was adjourned at 4:30 pm.

Proposed Performance Pledge on Turnaround Time of VSRS Application

	<u>Weeks</u>	<u>Weeks</u>
<u>Initial Vetting</u>		
Require additional info:	2	
		2
<u>Approval</u> (after received additional if required)		
Processing a 3-week batch:	3	
Prepare MC Approval Report :	1	
MC Approval:	1	
Prepare & Issue Reply:	1	
		6
	Total:	8