

Construction Industry Council

Committee on Subcontracting

Meeting No. 002/10 of the Committee on Subcontracting for 2010 was held on 11 May 2010 (Tuesday) at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong.

Present:	Mike WONG	(MW)	Chairman
	Hau-wai CHEUNG	(HWC)	
	Luen-kiu CHOW	(LKC)	
	Peter Oi-ki LAM	(OKL)	
	Conrad WONG	(CW)	
	Kam-hung YU	(KHY)	
	Wai-wai YU	(WWY)	
	Ada FUNG	(AF)	for Permanent Secretary for Transport and Housing (Housing)
	Paul CHONG	(PC)	The Hong Kong Federation of Electrical and Mechanical Contractors
	Kenny FOK	(KF)	Independent Commission Against Corruption
	Bernard HUI	(BH)	The Hong Kong Institute of Architects
	Michael HUI	(MH)	Development Bureau
	Joseph NG	(JN)	Hong Kong General Building Contractors Association
	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
	WONG Sing-lam	(SLW)	Contractor's Authorized Signatory Association
In Attendance:	Kevin POOLE	(KP)	Representing Stanley HUI
	Alex CHOW	(KPC)	Buildings Department
	Sonia YUNG	(SY)	Housing Department
	Sek-yiu KWAN	(SKW)	Water Supplies Department
	Christopher TO	(CT)	Executive Director
	Henry SUEN	(HS)	Manager (Research)
	Ivan WONG	(IW)	Senior Manager (Council Services) 2
	Phoebe LEUNG	(PLG)	Manager (Council Services) 2

For Agenda Item 2.6.1 only

Jacky WU (JW) Development Bureau

Apologies: Teresa CHENG (TC)
Stanley HUI (SH)
Koon-sun WAN (KSW)

PROGRESS REPORT

Action

2.0 Welcome Remarks

The Chairman welcomed all Members to the first meeting of the new CIC membership term and expressed his appreciation for their participation in the committee work.

2.1 Confirmation of the Progress Report of the Previous Meeting

Members took note of Paper CIC/SBC/R/001/10 and confirmed the progress report of the previous meeting held on Tuesday, 26 January 2010 at Room 1201, Murray Building, Central, Hong Kong.

2.2 Matters Arising from the Previous Meeting

2.2.1 Survey of Problems of Outstanding Payments in Construction Supply Chain

Discussed under Agenda Item 2.6

2.2.2 Stage 2 of Voluntary Subcontractor Registration Scheme

The Task Force on VSRS Stage 2 would submit a revised proposal for Members' consideration in due course.

2.2.3 Model Documents for Dispute Resolution

Discussed under Agenda Item 2.5

2.2.4 Meeting Schedule for 2010

Discussed under Agenda Item 2.10

Action

2.3 Committee Membership, Terms of Reference and Meeting Rules

Members took note of the Paper CIC/SBC/P/005/10 and agreed to retain the current terms of reference of the Committee. However, consideration could be given to modifying some wording or add new wording to reflect more accurately the tasks of the Committee as and when required.

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Members noted that the Hong Kong Construction Association (HKCA) and the Construction Site Workers General Union would be invited to nominate representatives to participate in the Committee as Co-opted Members.

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Secretariat**

The Chairman invited Members to join the Task Force on VSRS Stage 2 and would appreciate it if Members could reply to the Secretariat by 25 May 2010.

All

Members were also reminded to comply with the Code of Conduct issued to them and follow the Guidelines on Declaration of Interests to make disclosure should the need arise.

All

[PMN: Having reviewed the terms of reference of the Committee with reference to the statutory functions of the CIC and the current tasks of the Committee, an additional item was proposed as set out at the attached Annex A.]

2.4 Tentative Work Plan for Year 2010

Members took note of the Paper CIC/SBC/P/006/10.

2.5 Model Documents for Dispute Resolution

Members took note of Paper CIC/SBC/P/007/10.

Members agreed that sample contract clauses setting out alternative dispute resolution methods should be made available for industry stakeholders to incorporate in local construction works contracts. In view of the complexity of the legal documents and associated implications, Members considered it necessary to engage a legal adviser to draft the documents though there might be some budget concerns. The CIC Secretariat was directed to submit a funding request to the Committee on

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Action

Administration and Finance and the CIC for further consideration.

Members also agreed to set up a Task Force on Dispute Resolution Documentation to steer the drafting exercise and where necessary, review the timeline for this task. As the sample clauses would draw on the recommended measures in the Guidelines on Dispute Resolution to be published by the CIC, Members would like to invite Ms Teresa CHENG to lead the Task Force.

2.6 Report on Survey of Problems of Outstanding Payments in Construction Supply Chain (“Survey Report”)

Members took note of Paper CIC/SBC/P/008/10 and agreed that the Survey Report reflected the existence of outstanding payment problems in the construction industry and identified the difficulties perceived by the respondents.

Some Members cast doubt on the reliability of the amounts held up by the upper tiers as reported in the survey findings as they were projected figures based on the perceived survey responses which could deviate significantly from the actual figures.

Though the Survey Report might not be perfect in terms of the response rate of the survey in some of the sectors, Members believed that it could provide a good basis for the CIC to identify suitable measures to help address the outstanding payment problems.

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In response to a Member’s query, the Public Opinion Programme (POP) of the HKU would be requested to clarify the “frequently used resolution channels” in the public maintenance works as there was a doubt that the appointment of dispute resolution adviser was not the current practice applicable in the public maintenance works.

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After deliberation, Members agreed to submit the Survey Report to the CIC for endorsement. Some Members expressed reservation on publishing the rough projected but sensitive figures to the public which would mislead and cause confusion to the public. Some considered prudent for the CIC to formulate responses to the media before publishing the Survey Report at the CIC website. Some suggested the CIC to consider that the Survey Report should be issued to the concerned industry stakeholders for internal reference only.

Action

The Chairman gave a special vote of thanks to Mr Bernard HUI for his leadership to the Task Force on Survey of Problems of Outstanding Payments in Construction Supply Chain.

[Post-meeting notes: The POP checked the actual responses captured from the respondents and confirmed that there were 61 respondents chosen “Dispute Resolution Advisor” as one of the most commonly used resolution channels for the “Public Maintenance Works and advised not to amend the figure”.]

[JW joined the meeting at this juncture.]

2.6.1 Subcontractor Management Plan for Public Works

Members received a presentation from the Development Bureau on the framework and key scope of the Subcontractor Management Plan (SMP) adopted in public works projects, supplemented with a summary note tabled at the meeting.

The deliberation on the use of the SMP was deferred till Members were briefed on the next agenda item.

[JW left the meeting at this juncture.]

2.6.2 Possible Solutions to Outstanding Payment Problems (Security of Payment – Simple Information Pack)

Members took note of Paper CIC/SBC/P/009/10 and exchanged their views on various payments problems encountered by different stakeholders along the construction supply chain.

Taking into account of the SMP, Members considered that making user-friendly and simple written contracts readily available for adoption by subcontractors could be an effective measure to help minimise payment problems occurred in lower tier subcontracting. As such, a Task Force on Standard Contract Provisions for Domestic Subcontracts would be set up to steer the work. Reference could also be made to the Guidelines on Subcontracting Practice and Guidelines on Standard Forms of Domestic Subcontracts for Basic Trades

Action

previously issued by the Provisional Construction Industry Co-ordination Board. Mr Ki-cheung TANG kindly consented to lead the Task Force and the Secretariat was directed to contact the HKCA to invite their participation.

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2.6.3 Initial Discussion on Legislation of Security of Payment

Having reviewed the Survey Report conducted by the Public Opinion Programme of the HKU, Members contemplated setting up a task force to initiate the discussion on legislation of security of payment. The Chairman would identify a suitable person to lead the task force with the assistance of the CIC Secretariat.

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[BH left the meeting at this juncture.]

2.7 Report of Working Group on Mediation

Members took note of Paper CIC/SBC/P/011/10.

In response to a Member's query, the CIC Secretariat would revisit if mediation information and training for frontline dispute resolver would be applicable to the construction.

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Members in general supported the proposed response to the Reporting of the Working Group on Mediation for submission to the Department of Justice.

2.8 Categorisation of CIC Guidelines

Members took note of Paper CIC/SBC/P/013/10 and agreed to the proposed categorisation.

2.9 Renewal of Tenancy Agreement for VSRS Registration Office

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

Members noted that the registration office of the Voluntary Subcontractor Registration Scheme was situated in Wanchai. Having negotiated with the landlord, the HKCA, the current tenancy agreement would be renewed for 12 months (terminable after the first 6 months) at the same monthly rental upon expiry.

Action

Mr Conrad WONG declared and Members noted that he had no direct involvement in finalising the tenancy agreement with the CIC though he is the president of the HKCA

2.10 Meeting Schedule for 2010

Members took note of Paper CIC/SBC/P/012/10.

2.11 Any Other Business

Nil

2.12 Tentative Date of Next Meeting for 2010

10 August 2010 (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 5:00 pm.

Construction Industry Council

Committee on Subcontracting

Terms of Reference

1. To operate and develop the Voluntary Subcontractor Registration Scheme (VSRS).
2. To raise the professional standard of subcontractors through providing training courses and other value-added services under the VSRS and coordinating the training organized by other organizations.
3. To examine current arrangements for selection and management of subcontractors and recommend improvements.
4. To promote use of written subcontracts.
5. [To promote good practices relating to dispute resolution.](#)