

**Construction Industry Council**

**Committee on Subcontracting**

Meeting No. 003/11 of the Committee on Subcontracting for 2011 was held on 24 May 2011 (Tuesday) at 2:30pm at Boardroom, CIC Headquarters, 15/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

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Summary Notes of the Committee on Subcontracting Meeting No. 003/11:

<b>Agenda Item</b>	<b>Paper</b>	<b>Major Resolutions/ Progress Highlights</b>
3.1	CIC/SBC/R/002/11	<u>Confirmation of the Progress Report of the Previous Meeting</u> - Members of the Com-SBC approved the Progress Report CIC/SBC/R/002/11 of the last meeting held on 8 March 2011.
3.2		<u>Matters Arising from the 2nd Meeting for 2011</u> 3.2.1 <u>Mandatory Provident Fund</u> - VSRS Registration Office had been identifying the employers who defaulted on the MPF contribution by referring to the press releases available on the MPFA's web site. MPFA had recently provided at its website a new function to search for employers who had breached the Mandatory Provident Fund Schemes Ordinance in the past five years, which would help facilitate the VSRS's Management Committee to take necessary regulatory action against Registered Subcontractors who failed to comply with MPF requirements.

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		3.2.2 <u>Task Force on Voluntary Subcontractor Registration Scheme Stage 2</u> – To be discussed under item 3.7.
3.3	CIC/SBC/P/015/11	<p><u>Task Force on Dispute Resolution Documentation</u> - DevB expressed reservation on taking short form arbitration as the default option if both contracting parties could not mutually agree to choose any method of dispute resolution. The Hong Kong Federation of Electrical and Mechanical Contractors supported the use of short form arbitration as it would accelerate the procedure, which lead to a rapid decision. However, a Member pointed out that short form arbitration might not be the best nor the most suitable form of resolving full scale disputes. Members took note that the principle was to have a prompt resolution of disputes. Further deliberation should be carried out by the TF-DRD.</p> <p>The Hong Kong Institute of Surveyors expressed reservation on the adoption of independent expert certifier as it would risk undermining the role of quantity surveyor under the contract. Further discussion was required by the TF-DRD.</p>
3.4	CIC/SBC/P/016/11	<p><u>Task Force on Security of Payment Legislation</u> - DevB reported that around 550 companies, representing different sectors in the construction industry had been approached and invited to participate in the survey up to mid-May. Over 80% of them had agreed to take part in the face-to-face interview.</p> <p>Members were also briefed on the application of SoP legislation in various jurisdictions,</p>

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		including UK, New South Wales and Victoria of Australia as well as Singapore. A number of general attributes were introduced.
3.5	CIC/SBC/P/017/11 CIC/SBC/P/018/11 CIC/SBC/P/019/11	<u>Task Force on Standard Contract Provisions for Domestic Subcontracts</u> - Out of a total of twelve chapters, the task force had completed the discussion of seven chapters. Efforts were made to reach consensus amongst key stakeholders on the controversial issues such as payment, variations and final account. Subsequent clauses such as dispute resolution would be far more straightforward as some key areas were being reviewed by other task forces. Nonetheless, a number of important issues had been identified such as the prime cost rate, which should be addressed in the main contract between employers and main contractors. The task force would list out those issues and pass it over to the Committee on Subcontracting for consideration and deliberation at appropriate forum.
3.6	CIC/SBC/P/020/11	<p><u>Update on VSRS Operations</u> - Members were updated on the number of applications received and processed over the past four months in 2011.</p> <p>For the practical difficulty encountered by the Management Committee in taking regulatory actions against Registered Subcontractors convicted of site safety offences relating to serious bodily injury or loss of life, the following points had been concluded for further consideration by the Management Committee:</p> <ul style="list-style-type: none"> <li>i) To seek legal advice on the implication of regulatory action on subsequent civil claims.</li> <li>ii) Try to collect more information from Labour Department which would be sufficient to</li> </ul>

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		determine the appropriate type of regulatory action to be taken. iii) Consider the resources and manpower required, legal liability and the specific expertise and practicality of the Management Committee to determine the type of regulatory action to be taken. iv) Some form of regulatory action should be considered such as a warning letter if there was practical difficulty in imposing other forms of regulatory action.
3.7	CIC/SBC/P/021/11	<u>Management Committee of Voluntary Subcontractor Registration Scheme Stage 2</u> - In response to the recommendation in the internal audit report relating to the changes of the composition of the Management Committee, the following comments on the proposed amendment had been drawn by the Secretariat for further consideration: i) To expand the list of specified bodies by including representatives from construction industry employees unions. ii) To increase the number of appointed members to cover a wider range of stakeholders. iii) To reassign the proportion of members from different sectors.
3.8		<u>Any Other Business</u> - Nil.