

Construction Industry Council

Committee on Subcontracting

The 1st Meeting of the Committee on Subcontracting for 2010 was held on Tuesday, 26 January 2010 at 2:30 pm at Room 1201, Murray Building, Central, Hong Kong

Present:

Shing-see LEE	(SSL)	Chairman
Teresa CHENG	(TC)	
James CHIU	(JC)	
TSE Chun-yuen	(CYT)	
WAN Koon-sun	(KSW)	
Conrad WONG	(CW)	
YU Wai-wai	(WWY)	
Ada FUNG	(AF)	for Permanent Secretary for Transport and Housing (Housing)
CHEUNG Tak-hing	(TKH)	
Paul CHONG	(PC)	The Hong Kong Federation of Electrical and Mechanical Contractors
Bernard HUI	(BH)	The Hong Kong Institute of Architects
Joseph NG	(JN)	Hong Kong General Building Contractors Association
Lawrence NG	(LN)	Hong Kong Marble and Granite Merchants Association
Chee-sing SO	(CSS)	Henderson Land Development Co. Ltd.
Sing-lam Wong	(SLW)	Contractor's Authorised Signatory Association
Hung-yuen YAU	(HYY)	Association of Electrical Contractors
Michael HUI	(MH)	Development Bureau
HO Kwok-hung	(KHH)	Buildings Department
Sonia YUNG	(SY)	Housing Department
TSO Sing-hin	(SHT)	Labour Department
Chi-keung FUNG	(CKF)	Water Supplies Department
Kenny FOK	(KF)	Independent Commission Against Corruption

In Attendance:

Christopher TO	(CT)	Executive Director
Ivan WONG	(IW)	Senior Manager (Council Services) 2
Yvonne MAK	(YM)	Manager (Council Services) 4

For Agenda Item 1.3 only

Robert CHUNG	(RCG)	University of Hong Kong
Karie PANG	(KAP)	University of Hong Kong
Winnie LEE	(WIL)	University of Hong Kong

	Frank LEE	(FRL)	University of Hong Kong
Apologies:	Tat-tong CHEUNG	(TTC)	
	CHOI Chun-wah	(CWC)	
	Stanley HUI	(SH)	
	Edgar Kwan	(EK)	
	LAI Chi-hung	(CHL)	Hong Kong Construction Industry Employee's General Union
	LAW Wai-tai	(WTL)	Hong Kong Construction Association

PROGRESS REPORT

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1.1 Confirmation of the Progress Report of the Previous Meeting

Members took note of Paper CIC/SBC/R/005/09. As no comment was received from Members on the draft progress report during circulation and at the meeting, the progress report of the 5th meeting held on 8 September 2009 was confirmed.

1.2 Matters Arising from the Previous Meeting

1.2.1 Guidelines on Dispute Resolution

Members noted the amendment to the Guidelines made at the council meeting and the need of a section for the Foreword of the Guideline to be prepared by the Secretariat. A Member suggested that commercial settlement, as one of the commonly adopted methods in dispute resolution should be included in the Guidelines, Members generally agreed to issue the Guidelines as soon as possible while discussion on the practicality of commercial settlement could be made at a later stage when the Guidelines were reviewed.

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1.2.2 Protection of Worker's Entitlement to Wage Payment

Members noted the amendments to the Guidelines.

1.2.3 VSRS Stage 2

The subject was discussed under Agenda Item 1.4

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1.2.4 Update on the Progress of Survey of Problems of Outstanding Payments in Construction Supply Chain

The subject was discussed under Agenda item 1.3

1.2.5 Status Update of Work Plan

The paper CIC/SBC/P/028/09 on Work Plan was circulated to Members for approval on 12 November 2009. The Work Plan was supported by the majority of Members with some comments incorporated. It was discussed and agreed by the CIC in the meeting held on 9 December 2009.

1.2.6 Any Other Business

With reference to the agenda item 5.8.1 of the last meeting, query was raised on how the suggested areas of subcontractor management could be put forward for consideration at the Committee. Members agreed that the Development Bureau could deliver a presentation on the practices adopted in public works when they considered appropriate so that Members could deliberate the practicability of adopting the practices for the whole industry.

1.3 Survey of Problems of Outstanding Payments in Construction Supply Chain

Members received a presentation delivered by the HKU.

Key findings of the Survey were reported in the presentation as below:

a) overall Response Rate – 10.1%. RCG explained that a response rate of 15% would be ideal but the response rate of 10% was acceptable. However, RCG reminded that the responses from the groups of Employer and Consultant were a bit low and therefore the results obtained from the two groups might not be accurate enough in representing the views of the respective sectors. On the other hands, RCG remarked that the results obtained from the group of Subcontractor were reliable.

b) Five most serious payment problems in private works observed

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by the industry were (in the order of their seriousness)-

- i) late resolution of dispute
- ii) continue works when arrears not settled
- iii) late settlement of final account
- iv) delayed certification of interim payment; and
- v) obstacles for payment.

c) Findings also revealed that private works experienced greater difficulties in payment collection than public works.

The amount of outstanding payments involved was projected based on the survey data. RCG explained that the questionnaires were designed to understand the scope and magnitude of the payment problems in the industry but not focused on the estimation of the amount of outstanding payments otherwise the questionnaires would be too lengthy for respondents to answer. RCG advised that the projected figures could only be used as an indication of the seriousness of the problems rather than absolute figures. Members considered that the projection had already indicated the seriousness of the payment problems which required early attention.

After the presentation, HKU would prepare the final report for submitting to the CIC.

HKU

(RCG, KAP, WIL and FRL left the meeting at this juncture.)

After deliberation, Members agreed that the survey findings echoed with the general observations of the industry and could reflect the payment problems in the industry in a quantitative manner for easy apprehension of the problems. In view of the seriousness of the payment problems relating to dispute resolution, Members suggested the Guidelines on Dispute Resolution should be issued as soon as possible and start investigating the possible solutions such as the deliberation on the legislation for the security of payment.

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Members considered that it might be too detailed for having the presentation delivered to the council members at the council meeting. Instead, the Secretariat was directed to summarise the key findings of the survey to facilitate the discussion at the council meeting.

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Chairman thanked Mr. Bernard HUI, the Chairman of the Task Force on the Survey and the members of the Task Force for their contribution to the delivery of the good study.

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1.4 **VSRS Stage 2**

Members took note of Paper CIC/SBC/P/002/10.

Collection of data

A Member suggested the meaning of local contracts should be clearly specified in the data collection sheet to avoid confusion. Members agreed to collect data as listed out in Annex A and B from VSRS applicants for future categorization.

Improve regulatory action

Members supported extending the coverage of regulatory action to the violation of Immigration Ordinance, and without limiting to loss of life or serious bodily injury under the Factories and Industrial Undertakings and the Occupational Safety and Health Ordinance.

Improve transparency

Members agreed that more transparent guidelines on regulatory actions would be necessary.

Application after revocation

Members suggested the Task Force to take into account of the difficulties of subcontractors and come up with a practical requirement for re-registration.

**TF-VSRS
Stage 2**

Extend the coverage of VSRS

While the important principle was that the VSRS should be designed for the adoption of the industry as a whole, Members agreed that extending the promulgation of VSRS to public organisations, subvented and universities projects with a higher priority could be appropriate. Members also suggested the Task Force to devise a work plan on approaching the concerned organisations. In view of the extended adoption of VSRS, Members supported renaming the scheme to Subcontractor Registration Scheme (SRS).

**TF-VSRS
Stage 2**

Probation registered subcontractors

In respect of adding a probation class to the scheme, Members suggested that the existing entry requirement should be reviewed to avoid creating too much barrier for the new subcontractors to register after the implementation of the SRS, instead of creating a new probation class. The Task Force was advised to further discuss the issues with reference to the comments of Members.

**TF-VSRS
Stage 2**

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The Chairman also suggested the Task Force reviewed the Rules and Procedures for necessary amendment and update in respect of the SRS.

**TF-VSRS
Stage 2**

1.5 Task Force on Dispute Resolution Documentation

Members took note of Paper CIC/SBC/P/003/10.

In response to the suggestion of the CIC to prepare a set of model documents to facilitate the incorporation of the recommended measures of the Guidelines on Dispute Resolution in the construction contracts, Members suggested appointing a legal consultant to draft the documents based on the recommended principles for the sake of efficiency. The draft should then be circulated to Members and concerned parties for comments, followed by discussion at the Committee meetings.

The Secretariat was directed to relay the matter to COM-ANF for the appointment of legal consultant.

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1.6 Meeting Schedule for 2010

Members took note of the Paper CIC/SBC/P/025/09.

A Member considered the duration between the current meeting and the next meeting would be a bit long as there would be much to discuss on the security of payment following the Survey. The Chairman noted the comment and asked the Secretariat to check with the chairman of the Committee for the new session of CIC the need of advancing the next meeting date.

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1.7 Any Other Business

Mr. SS LEE, the Chairman of the Committee, thanked all the Members for their contribution and support to the Committee which had made fruitful outputs over the past years. Members proposed a vote of thanks to the good leadership of the Chairman.

There being no further business, the meeting adjourned at 5:15 pm.