CHAPTER 5  
CONTRACT DOCUMENTS

PARAGRAPH 9  
SPECIAL TOPICS

(a) Para. 9.31

Replace the heading “ENGAGEMENT OF SUB-CONTRACTORS REGISTERED FROM SUBCONTRACTOR REGISTRATION SCHEME” with “ENGAGEMENT OF SUB-CONTRACTORS REGISTERED FROM THE “REGISTERED SPECIALIST TRADE CONTRACTORS SCHEME””.

Replace the reference after the heading “(Subsumed from ETWB TCW No. 13/2004 & SDEV’s memo ref. (02KJ8-01-4) in DEVB(W) 510/94/02 dated 22.7.2013)” with “(Subsumed from ETWB TCW No. 13/2004, SDEV’s memo ref. (02KJ8-01-4) in DEVB(W) 510/94/02 dated 22.7.2013 and SDEV’s memo ref. ( ) in DEVB(W) 510/94/02 dated 28.3.2019)”.

Add “and irrespective of tier” after “specialist or domestic” and add “(and groups if available)” after “the respective trades” in the first paragraph.

Replace “Primary Register of the Subcontractor Registration Scheme (SRS)” with “Registered Specialist Trade Contractors Scheme (RSTCS)” and replace “Voluntary Subcontractor Registration Scheme (VSRS)” with “Subcontractor Registration Scheme (SRS)” in the first paragraph.

Add “(CIC)” after “Construction Industry Council” in the first paragraph.

Add the following paragraph after the first paragraph:

The RSTCS which was launched on 1.4.2019 comprises the lists of both the Registered Specialist Trade Contractors (RSTC) and the Registered Subcontractors (RS). The RSTC are further classified into Group 1 and Group 2 subject to different admission criteria and tender limits. To allow time for building up adequate Group 2 RSTC, the requirement to engage subcontractors from Group 2 for works
exceeding the tender limit of Group 1 shall only be adopted in contracts for which tenders will be invited on or after 1 October 2020 or any other date to be announced by the DEVB (the “full implementation date”). Before the full implementation date, no tender limit in respect of the engagement of RSTC shall be imposed on contracts for which tenders will be invited.

Add “(For NEC ECC or TSC contracts, please refer to the above mentioned memo of 28.3.2019 for the suite of NTT and ACC)” after “maintenance works contracts” in the first sentence of the second paragraph.

(b) Para. 9.33

Add “with updates from SDEV’s memo ref. ( ) in DEVB(W) 510/94/02 dated 28.3.2019” after “contractual provisions” and add “(For NEC ECC or TSC contracts, please refer to the above mentioned memo for the suite of contractual provisions)” after “maintenance works contracts” in the sixth paragraph.

Add the following paragraph after the sixth paragraph:

Pursuant to the new arrangement promulgated under SDEV’s memo ref. ( ) in DEVB(W) 510/94/02 dated 28.3.2019 (as mentioned in paragraph 9.31 above), the contractors should provide the details of subcontract(s), including but not limited to the trades (and groups if applicable) of the subcontractor(s) under the RSTCS and value of the subcontract(s) in the SMP. To build up subcontractors information and facilitate future analysis, project offices shall submit quarterly the particulars of subcontracts under item (ii) of Appendix to SCC on SMP in an excel template (see Table 1 in Appendix 5.23) to DEVB.

APPENDICES

(c) Appendix 5.6

Replace “Appendix 5.6” with Annex A

(d) Appendix 5.22

Replace “Appendix 5.22” with Annex B

(e) Appendix 5.23

Replace “Appendix 5.23” with Annex C
CHAPTER 7  CONTRACT MANAGEMENT

PARAGRAPH 21  MISCELLANEOUS

(a) Para. 21.14.2


Add the following after the last sentence of first paragraph:

In end 2018, the CIC completed a review of the SRS and subsequently proposed to rename the SRS as the Registered Specialist Trade Contractors Scheme (RSTCS) with a couple of enhancements. Please refer to paragraph 21.14.3 for details.

Add “(hereinafter referred to as “RSTCS” with effect from 1 April 2019)” after “under the SRS” in the first sentence of the second paragraph.

Replace “SRS” with “RSTCS” in the second sentence of the second paragraph.

Replace “SRS” with “RSTCS” in the first and second sentences of the third paragraph.

Replace “SRS” with “RSTCS” in the fourth paragraph.

Replace “SRS” with “RSTCS” in the first and second sentences of the fifth paragraph.

(b) Para. 21.14.3

Add a new paragraph 21.14.3 after paragraph 21.14.2 as follows:

Renaming and Enhancement of the Subcontractor Registration Scheme of the Construction Industry Council (Subsumed from SDEV’s memo ref. ( ) in DEVB(W) 510/94/02 dated 28.3.2019)

In end 2018, the CIC completed a review of the SRS and subsequently proposed to rename the SRS as the RSTCS with a couple of enhancements. Under the revamped framework, the RSTCS comprises the lists of both the Registered Specialist Trade Contractors (RSTC) and the Registered Subcontractors (RS). The RSTC are further classified into Group 1 and Group 2 subject to different admission criteria and tender limits.
The RSTCS has taken effect from 1 April 2019. Upon the launch of the RSTCS, the registered subcontractors in the SRS under seven designated trades (i.e. (1) concreting; (2) concreting formwork; (3) curtain wall; (4) demolition; (5) erection of concrete precast component; (6) reinforcement bar fixing and (7) scaffolding) have been automatically transferred to Group 1 RSTC. These registered subcontractors may also apply for direct admission to Group 2 RSTC if they can meet the respective criteria. For other registered subcontractors in the remaining trades, they have been retained as RS under the RSTCS (previously SRS). More information of the RSTCS can be found on the website of CIC (http://www.cic.hk).

Engagement of Subcontractors Registered under the RSTCS

A suite of updated Notes to Tenderers (NTT), SCC and Additional Conditions of Contract (ACC) is enclosed at Annex A of the above memo dated 28.3.2019, setting out the requirement that public works contractors are required to employ subcontractors (whether nominated, specialist or domestic and irrespective of tier) who are registered under the respective trades (and groups if applicable) available in the RSTCS. With effect from 1 April 2019 and subject to the below paragraph, for all capital and maintenance works contracts with tenders not yet been invited, the updated NTT and SCC/ACC (whichever is applicable) shall be adopted. For contracts for which tenders have been invited, project officers should arrange to take necessary actions, including issue of tender addendum, as appropriate to duly incorporate the updated NTT and SCC/ACC (whichever is applicable).

To allow time for building up adequate Group 2 RSTC, the requirement to engage subcontractors from this group for works exceeding the tender limit of Group 1 shall only be adopted in contracts for which tenders will be invited on or after 1 October 2020 or any other date to be announced by the DevB (the "full implementation date"). In the interim, no tender limit in respect of the engagement of RSTC shall be imposed on contracts for which tenders will be invited before the full implementation date.

Revised Requirements for Subcontractor Management Plan
Under the new arrangement, the contractors should provide the details of subcontract(s), including but not limited to the trades (and groups if applicable) of the subcontractor(s) under the RSTCS and value of the subcontract(s) in the SMP. The updated NTT and Appendix to SCC and ACC on SMP are enclosed at Annex B of the above memo dated 28.3.2019.

To build up subcontractors information and facilitate future analysis, project offices shall submit quarterly the particulars of subcontracts under item (ii) of Appendix to SCC and ACC on SMP in an excel template (Table 1 in Annex B of the above memo dated 28.3.2019) to DEVB.

APPENDIX

(c) Appendix 7.39

Replace “Sub-contractor Registration Scheme” with “Registered Specialist Trade Contractors Scheme (RSTCS)” in Item B.39A of Annex A.

Replace “Sub-contractor Registration Scheme” with “RSTCS” under Requirements in Item B.39A of Annex A.

Replace “Sub-contractor Registration Scheme” with “Registered Specialist Trade Contractors Scheme (RSTCS)” in Item C.30A of Annex B.

Replace “Sub-contractor Registration Scheme” with “RSTCS” under Requirements in Item C.30A of Annex B.

Replace “Sub-contractor Registration Scheme” with “Registered Specialist Trade Contractors Scheme” in Item 62B of Annex C.

Replace “Sub-contractor Registration Scheme” with “Registered Specialist Trade Contractors Scheme” in Item 49B of Annex D.
APPENDIX 5.6 NOTES TO TENDERERS AND SPECIAL CONDITION OF CONTRACT FOR ENGAGEMENT OF SUB-CONTRACTORS REGISTERED FROM THE “REGISTERED SPECIALIST TRADE CONTRACTORS SCHEME”  
(Subsumed from ETWB TCW No. 13/2004, SDEV’s memo ref. (02KJ8-01-4) in DEVB(W) 510/94/02 dated 22.7.2013 and SDEV’s memo ref. ( ) in DEVB(W) 510/94/02 dated 28.3.2019)

The following Notes to Tenderers and Special Condition of Contract shall be included in tenders for all capital and maintenance works contracts:

Notes to Tenderers:

“Tenderers’ attention is drawn to the Special Condition of Contract [x] requiring the engagement of sub-contractors who are registered under the respective trades [and groups] available in the Registered Specialist Trade Contractors Scheme (RSTCS).”

Special Condition of Contract

I) “SCC[x] - Engagement of sub-contractors who are registered under the respective trades [and groups] available in the Registered Specialist Trade Contractors Scheme:

General Conditions of Contract Clause 4 is amended by adding the following:

(10)(a) For the purpose of this sub-clause (10), the following words and expressions shall have the meaning hereby assigned to them:

“RSTCS” means the Registered Specialist Trade Contractors Scheme managed by the Construction Industry Council and as referred to in the Rules and Procedures applicable to the aforesaid Registered Specialist Trade Contractors Scheme.

[“Group 1” and “Group 2” mean the classification of contractors into Group 1 and Group 2 under each trade of the Register of Specialist Trade Contractors.]

(b) Where the Contractor is to [sub-contract/sub-let] part of the Works execution of which involves trades available in the RSTCS, the Contractor shall only engage, for the purposes of execution of such part of the Works, sub-contractor(s) who has satisfied all of the following criteria:

(i) the sub-contractor is the sub-contractor stated in the Contractor’s latest updated submission of the Sub-contractor Management Plan;

(ii) the sub-contractor has completed registration under the relevant trade(s) available in the RSTCS before the commencement of the works under the relevant sub-contract; and

(iii) if the sub-contractor is registered under a trade in the Register of Specialist Trade Contractors and if the value of relevant sub-contract exceeds
the tender limit of Group 1, the sub-contractor has been admitted into Group 2 before the commencement of the works under the relevant sub-contract.\[^1\]

The Contractor shall not engage a sub-contractor who is suspended or in the process of an appeal against his suspension from registration in the RSTCS unless the suspension is lifted before the commencement of the works under the relevant sub-contracts. The foregoing shall also apply to the Contractor’s engagement of [Nominated Sub-contractors]\[^4\], [Specialist Sub-contractors]\[^5\] and [sub-contractors for specialist works referred to in Special Condition of Contract Clause [\[\]\]\[^6\]\[^7\]].

(c) The Contractor shall ensure that where any part of the part of the Works sub-contracted to :-

(i) a sub-contractor engaged under sub-clause 102(b) of this Clause;

[(ii) a Nominated Sub-contractor;]\[^4\]

[(iii) a Specialist Sub-contractor; or]\[^5\]

[(iv) a sub-contractor for specialist works referred to in Special Condition of Contract Clause [\[\]\]\[^6\]\[^7\]},

execution of which involves trades available in the RSTCS is further sub-contracted (irrespective of any tier), only sub-contractors (irrespective of any tier) who have satisfied all of the following criteria are engaged for the purposes of execution of such part of the part of the Works:

(i) the sub-contractor is the sub-contractor stated in the Contractor's latest updated submission of the Sub-contractor Management Plan;

(ii) the sub-contractor has completed registration under the relevant trade(s) available in the RSTCS before the commencement of the works under the relevant further sub-contract; and

[(iii) if the sub-contractor is registered under a trade in the Register of Specialist Trade Contractors and if the value of relevant sub-contract exceeds the tender limit of Group 1, the sub-contractor has been admitted into Group 2 before the commencement of the works under the relevant further sub-contract.\[^1\]]

The Contractor shall also ensure that a sub-contractor (irrespective of any tier) who is suspended or in the process of an appeal against his suspension from registration in the RSTCS shall not be engaged for the aforesaid further sub-contracting (irrespective of any tier) unless the suspension is lifted before the commencement of the works under the relevant further sub-contracts.
Notes:

1. The contractors registered in the Register of Specialist Trade Contractors are classified into two groups – Group 1 and Group 2, with different admission criteria and tender limits. For newly established companies without complete job records, but satisfying other admission criteria, they might apply for registration as a Group 1 (probationary) contractor under the trades available in the Register of Specialist Trade Contractors. The words in square bracket should be adopted for capital and maintenance works contracts for which tenders will be invited on or after 1.10.2020 (or such other date as announced by DEVB), i.e. the tender limits of Group 1 and Group 2 should be observed. (para. 5 of SDEV’s memo ref. DEVB(W) 510/94/02 of 28.3.2019 refers)

2. The numbering of this added sub-clause may vary depending on the type of GCCs used and whether there are other SCC in the contract which also amend GCC Clause 4.

3. Use “sub-contract” or “sub-let” as appropriate depending on the type of GCC’s used in individual contract.

4. Use as appropriate depending on the type of GCC’s used in individual contract.

5. Use when the standard SCC in WBTC No. 25/94 (entitled “Standard Form of Domestic Sub-contract for specialist works”) is used in individual contract.

6. Insert the number of the SCC in the individual contract which has used the standard SCC for sub-contracting in Secretary for Works’ memo WB(W) 209/32/110 (entitled “Library of Special Conditions of Contract Clause 14 - Sub-contracting”) dated 23.3.2001.

7. Use when standard SCC on sub-contracting in Secretary for Works’ memo WB(W)209/32/110 (entitled “Library of Special Conditions of Contract Clause 14 - Sub-contracting”) dated 23.3.2001 is used in individual contract.

8. Upon the launch of the RSTCS by the CIC on 1.4.2019, seven trades – (1) Concreting; (2) Concreting Formwork; (3) Curtain Wall; (4) Demolition; (5) Erection of Concrete Precast Component; (6) Reinforcement Bar Fixing and (7) Scaffolding are put under the Register of Specialist Trade Contractors.
APPENDIX 5.22 NOTES TO TENDERERS FOR PAYMENT FOR SUB-CONTRACTOR MANAGEMENT PLAN

Notes to Tenderers

NTT# : Payment for Sub-contractor Management Plan

Tenderers’ attention is drawn to GCT 20, Special Conditions of Contract Clauses [x] and [xx] and Particular Specification Section [x] requiring the submission and quarterly updating of the Sub-contractor Management Plan (SMP) in the form and contents as prescribed in the Contract. Tenderers’ attention is also drawn to the requirement to monitor and ensure the implementation of and the compliance with the SMP.

Tenderers should note that there are no separate items in the [*Bills of Quantities/Schedule of Rates] for measurement of “complete Sub-contractor Management Plan” and “quarterly updating of Sub-contractor Management Plan” and that, in line with the “[*General Preambles/Method of Measurement] to the [*Bills of Quantities/Schedules of Rates], the rates in the [*Bills of Quantities/Schedules of Rates] shall cover, inter alia, the provision of implementation of and compliance with the SMP.

NTT# : Details of Sub-contractor Management Plan

Tenderers’ attention is drawn to the Appendix [x] to Special Conditions of Contract [x] requiring the submission of the details of sub-contract(s), including but not limited to the trade and group (if any) of the sub-contractor under the Registered Specialist Trade Contractors Scheme and value of the sub-contract(s) in the Sub-contractor Management Plan.

# Please insert appropriate reference

*Delete or amend as appropriate
APPELLIX 5.23 SPECIAL CONDITIONS OF CONTRACT FOR MANAGEMENT OF SUB-CONTRACTORS

Special Conditions of Contract

SCC[x]: Management of Sub-contractors

General Conditions of Contract Clause 4 is amended by adding the following:

(7) (a) Notwithstanding the foregoing sub-clauses of this Clause, the Contractor shall within 30 days of the Employer's letter of acceptance of the Tender submit a Sub-contractor Management Plan (SMP) to the Engineer/Supervising Officer* (E/ SO*) for information and comments, if any.

(b) The Contractor shall then submit quarterly the updated SMP till the issuance of the certificate of completion or where there is more than one such certificate, the issuance of the last certificate of completion to the E/ SO* for information and comments, if any. Should there be any major changes in the Contractor's sub-contracting arrangement during the period before the next quarterly reporting, the Contractor should notify immediately such changes to the E/ SO* in writing. The quarterly updated SMP required under this paragraph (b) shall be submitted within one month from each quarterly period. For the avoidance of doubt, the first quarterly period shall commence from the date of submission of the SMP by the Contractor pursuant to paragraph (a) of this sub-clause. Any interim notification of changes by the Contractor shall not affect his obligation to submit the quarterly updated SMP. In case there is no change to the previous SMP, the Contractor shall declare such status in writing instead of submitting the same SMP again.

(c) The SMP submitted under paragraphs (a) and (b) of this sub-clause shall contain detailed information as required by the Guidelines on Scope and Contents of the Sub-contractor Management Plan at Appendix [x] to these Special Conditions of Contract.

(d) The E/ SO* may upon receipt of the SMP comment on the SMP and notify the Contractor of such comments in writing. If the E/ SO* is of the opinion that the SMP submitted under paragraphs (a) and (b) of this sub-clause does not meet the requirements of the Contract, the E/ SO* may, by written notice, require the Contractor to revise or update the SMP and the Contractor shall comply with that requirement within 14 days of the date of the notice. No approval of the SMP is required from the E/ SO*.

(e) Subject to the provisions of other Special Conditions of Contract stating to the contrary, the Contractor shall ensure that his sub-contractors shall not sub-contract the whole of the works sub-contracted to them.

(f) The Contractor shall employ his own staff to manage and supervise his sub-contractors.
(g) For the purpose of this clause and the Guidelines on Scope and Contents of the Sub-contractor Management Plan at Appendix [x] to these Special Conditions of Contract, the term 'sub-contractor' means all types of sub-contractor including without limitation Nominated Sub-contractor and Specialist Sub-contractor.

(h) The Contractor shall, upon written request by the E/SO* (which may be issued by the E/SO* from time to time or at any time), produce to the E/SO* documentary proof to demonstrate to the satisfaction of the E/SO* that the Contractor has complied with all the provisions in the latest SMP submitted under paragraphs (a) and (b) of this sub-clause. Such documentary proof includes, but is not limited to, documents of sub-contracts, reports from sub-contractors on their further sub-contracting arrangement and daily attendance records of site workers. For the purpose of determining the extent of documentary proof, the E/SO* shall made reference to the Guidelines on documentary proof to demonstrate the compliance of the provisions in the SMP at Appendix [y] to these Special Conditions of Contract. The E/SO* may make as many separate written requests as he thinks fit. The provisions of this sub-clause shall be without prejudice to sub-clause (5/7*) of this Clause.

* Delete as appropriate [The numbering of the sub-clause may vary depending on individual contract. The sub-clause intended to be referred to is the sub-clause of GCC Clause 4 which states the duty of the Contractor if so required to furnish full particulars of any sub-contractor employed on the Works.]

^ The numbering of this added sub-clause may vary depending on the type of GCCs used and whether there is other SCC in the contract which also amend GCC Clause 4.
Appendix [x] to SCC[x]

Guidelines on Scope and Contents of Sub-contractor Management Plan

The Sub-contractor Management Plan shall include (but not limited to) the following:

i) Scope of works to be sub-contracted including the form and extent of sub-contracting arrangement such as labour only, labour and plant, labour and material, plant only, lump sum or any other combination of types. Proof of ownership of construction plant and material shall be addressed. The scope of works to be sub-contracted shall comply with the relevant contractual provisions (i.e. the SCC for Limiting the Tiers of Sub-contracting).

ii) Particulars of sub-contracts (irrespective of tiers) as required under the Template under Table 1.

iii) The Contractor’s approach to demand/ensure his sub-contractor(s) to a) abstain from sub-contracting the whole of the works sub-contracted to him/them, and b) report upwards his/their sub-contracting arrangement and any subsequent changes with written declarations of no “hidden” sub-contracts for any part of the Works sub-contracted to any of them.

iv) The Contractor’s proposed measures for supervision of the works and monitoring of the performance of sub-contractors, particularly the aspects of the works programming, quality and safety of the works and environmental protection.

v) Criteria for selection of sub-contractor(s) involving trade(s) not available in the Registered Specialist Trade Contractors Scheme (RSTCS).

vi) The Contractor’s approach to ensure all his sub-contractor(s) (irrespective of tiers) to adopt written contracts in his/their sub-contracting and that all the sub-contract(s) comply with the requirements as stipulated in the Contract (i.e. SCC for Sub-contract conditions).

vii) Details of the Contractor’s Management Team, as required in the Contract (i.e. the SCC for Contractor’s Management Team), employed on direct supervision and management of sub-contractor(s). An organization chart showing the responsibilities of the Contractor’s direct staff in supervision and management of his sub-contractor(s) shall be submitted.

vii) Declaration that members of staff on the Contractor’s Management Team are prohibited to be given a sub-contract to any part of the Works or to have a vested interest in any of the sub-contractors irrespective of tiers.

ix) The Contractor’s proposed measures to ensure the compliance with the implementation of the system of payment of wages to the Site Workers as stipulated in the Contract (i.e. SCC for Payment of Wages of Site Workers). The Contractor’s proposed measures for ensuring timely payments to sub-contractor(s) and payments by sub-contractor(s) to sub-contractor(s) of lower tiers.

NB. The above items are not exhaustive. The Contractor can add any other items, which he considers pertinent to the proper management of his sub-contractor(s).
[For contracts without contract measures to prevent non-payment of wages and/or limiting number of tiers of sub-contracting]

Guidelines on Scope and Contents of Sub-contractor Management Plan

The Sub-contractor Management Plan shall include (but not limited to) the following:

i) Scope of works to be sub-contracted including the form and extent of sub-contracting arrangement such as labour only, labour and plant, labour and material, plant only, lump sum or any other combination of types. Proof of ownership of construction plant and material shall be addressed.

ii) Particulars of sub-contracts (irrespective of tiers) as required under the Template under Table 1.

iii) Criteria for selection of sub-contractor(s) involving trade(s) not available in the Registered Specialist Trade Contractors Scheme (RSTCS).

iv) Details of the Contractor’s own staff employed for direct supervision and management of his sub-contractor(s). An organization chart showing the responsibilities of the contractor’s direct staff in supervision and management of his sub-contractor(s) shall be submitted.

v) The Contractor’s approach to demand/ensure his sub-contractor(s) to a) abstain from sub-contracting the whole of the works sub-contracted to him/them, and b) submit written declarations of no “hidden” sub-contracting of works.

vi) The Contractor’s approach to encourage his sub-contractor(s) to adopt written contract(s) in his/their sub-contracting.

vii) The Contractor’s proposed measures to demand his sub-contractor(s) to report upward his/their sub-contracting arrangement(s) and any subsequent changes.

viii) The Contractor’s proposed measures for monitoring and assessing the works programme, quality, safety and environmental performance of his sub-contractors.

ix) The Contractor’s proposed measures for ensuring timely payment to downstream sub-contractor(s) after his payment to his direct sub-contractor(s).

x) The Contractor’s approach for monitoring disputes.

xi) The Contractor’s approach for handling complaints from workers on site regarding wages arrears disputes and co-ordinating with Labour Department for prompt action. Contractors are required to keep the Architect/Engineer/Supervising Officer's site representatives updated of the situation.

xii) The Contractor's proposed measures for maintaining updated daily attendance records of all workers on site.

xiii) The Contractor's proposed measures for site security and workers' daily access control if applicable.
NB. The above items are not exhaustive. The Contractor can add any other issues, which he considers pertinent to the proper management of his sub-contractor(s).
Guidelines on documentary proof to demonstrate the compliance of the provisions in the SMP

i) E/SO should base on their professional judgment in selecting samples of sub-contract document/report for documentary proof.

ii) Documentary proof should be limited to relevant information for the demonstration of the compliance of the provisions in the submitted SMP i.e. information as stipulated in the Guidelines on Scope and Contents of the Sub-contractor Management Plan at Appendix [x] to these Special Conditions of Contract.

iii) Documentary proof should exclude sensitive commercial information such as price, payment conditions, bills of quantity etc.