

Development Bureau (Works Branch)

**Management Handbook for Direct Employment of
Resident Site Staff by Consultants for
Public Works Projects**

Revision 1.0

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1.0 EXECUTIVE SUMMARY

1.1 PURPOSE OF THE HANDBOOK

1.1.1 To update and streamline the existing mechanism on direct employment of Resident Site Staff (“RSS”) by consultants promulgated under Development Bureau (“DEVB”) Technical Circular (Works) (“TC(W)”) No. 4/2008 and the associated circular memoranda by taking into consideration the prevailing practice of the civil service and the specific employment nature of RSS in public works projects, the “Management Handbook for Direct Employment of Resident Site Staff by Consultants for Public Works Projects” (the “Handbook”) is promulgated to facilitate Government departments’ management of RSS-related matters in consultancy agreements under the purview of the Architectural and Associated Consultants Selection Board (AACSB) and the Engineering and Associated Consultants Selection Board (EACSB). This Handbook aims to provide guidance to and align the practices of different managing departments for the concerned matters. This Handbook is intended to be a living document which will be updated from time to time on a need basis.

1.2 KEY TOPICS OF THE HANDBOOK

1.2.1 This Handbook focuses on common RSS-related issues encountered by managing departments in public works projects. Among the various topics of the Handbook, the following are major updates that warrant special attention:

(a) RSS Establishment Committee

Each works department shall set up a RSS Establishment Committee (“RSSEC”) to oversee and align the management of RSS-related issues within the department. The composition and terms of reference of the RSSEC are given in Section 3.1.

(b) General Principles for Reimbursement Caps on Salary and Fringe Benefits of RSS

The general principles for determining various reimbursement caps on salary and fringe benefits of RSS are outlined in Section 4.3. The maximum aggregate eligible period of reimbursement on housing benefits for RSS with a salary equivalent to Master Pay Scale (“MPS”) Point 34 or above will be capped to 120 months counting from new RSS employment contracts commencing after 1 August 2018. The reimbursement cap on combined end-of-contract gratuity and Mandatory Provident Fund (“MPF”) percentage for clerical staff of Type B RSS will be updated to 15% for new RSS employment contracts commencing after 1 August 2018. The reimbursement cap on medical and dental care will be adjusted with reference to the annual change in Composite Consumer Price Index for medical services on an annual basis.

(c) Extension of Service Break Period and Special Arrangement for Service Break Exemption

With effective from 1 August 2018, the service break period is further extended to sixty calendar months as detailed in Section 4.4.4. Also, in order to enrich the skills and experience of RSS which would benefit the supervision of public works projects in the long run, special arrangement for service break exemption will be extended to cover capital subvention projects and capital works/infrastructure projects implemented by statutory bodies and private organizations that fall within the ambit of the Government’s policy initiatives as detailed in Section 4.5.

(d) Special Arrangement for Recruitment Difficulty Exemption for Granting Incremental Credit for Experience to New Recruits

To allow consultants to have flexibility to form their RSS teams appropriate to meet the specific project requirements for site supervision and contract management, special arrangement will be introduced to give exemption for recruitment difficulty criterion to grant incremental credit for experience (“ICE”) to new recruits of RSS who possess the required expertise to supervise complex projects involving

uncommon or advanced structural form, construction method or technology as detailed in Section 4.7.

(e) Reimbursement of Specified Training Costs for RSS

To encourage consultants to release RSS to attend the safety training courses specified in Appendix 4.8, consultants will be reimbursed for the actual expenses instead of absorbing the expenses in the on-cost rates in new consultancy agreements. To enhance management of works contracts in New Engineering Contract (“NEC”) form, consultants will be reimbursed for the actual expenses for providing training to senior professional or above for not more than four-day NEC project manager accreditation training course, NEC construction professional certification training course or equivalent recognized by international or local construction-related professional institution/institute as introduced in Section 4.9.

(f) Building up a Partnering Culture

Managing departments, consultants, RSS and works contractors shall collaborate to build up partnering teams for public works projects. To facilitate communication and enhance the effective use of office resources, the approach of joint site office for RSS and works contractor will be promoted as highlighted in Section 6.1.

(g) RSS Performance Appraisal

A performance appraisal system will be introduced to assess RSS’s performance at 12-month or less intervals. The performance appraisals will provide the basis for any recommendation for the grant of annual increment and/or end-of-contract gratuity, or extension or renewal of RSS employment contracts where appropriate as detailed in Section 6.3.

(h) RSS Database and Performance Reports/Records

The RSS Database has been revamped to integrate with the Consultants' Performance Information System (CNPIS) to keep the personal profiles, employment history, housing benefits records, performance reports with "Unsatisfactory" or "Poor" overall performance grades (namely "unsatisfactory/poor performance reports") and poor performance records of all RSS. With effect from 1 March 2023, the managing departments can check the information on unsatisfactory/poor performance reports and poor performance records of RSS in the immediate past three years from the RSS Database via the CNPIS. Any unsatisfactory/poor performance reports and/or poor performance records of RSS in the immediate past three years counting from and including the date of application deadline of RSS recruitment will be considered in the RSS recruitment exercises according to Section 6.4.4. After the completion of RSS recruitment exercises, all reports and records of RSS retrieved from the RSS Database shall be destroyed within three months after obtaining consent for RSS employment according to Section 5.1.9. In this Handbook, "poor performance records" shall mean records of sub-standard work, poor integrity, misconduct, conviction records for offence or suspension records. The suspension records shall refer to Section 6.4.2(vii)..

(i) Best Supervisory Team of the Year Awards

To recognise excellence and best practice in site supervision, contract management and collaboration partnership during the delivery of public works projects, the "Best Supervisory Team of the Year Awards" will be launched as introduced in Section 6.7.

2.0 BACKGROUND

2.1 SCHEME OF DIRECT EMPLOYMENT OF RSS BY CONSULTANTS

2.1.1 Since 1995, the scheme of direct employment of RSS by consultants (the “RSS Scheme”) has been adopted in construction supervision for public works projects associated with AACSB/EACSB consultancy agreements. The objectives of the RSS Scheme include:

- (i) Upkeeping of good quality and value for money for management and supervision of public works projects;
- (ii) Demarcation of responsibilities in site supervision and contract management between the Government and consultants;
- (iii) Flexibility given to consultants for their recruitment, employment and management of site supervisory staff to suit specific nature and requirements of individual public works projects, with equitable risk sharing for site supervision costs to ensure the quality of supervision; and
- (iv) Maintenance of an appropriate pool of experienced site supervisory staff for public works projects if necessary.

2.1.2 Under the RSS Scheme, consultants are required as part of their services to recruit, employ and manage RSS for site supervision and contract management for public works projects. Consultants should determine and propose the appropriate RSS establishment for the managing departments’ approval. The general principles of the RSS Scheme include:

- (i) RSS as direct employees of consultants;
- (ii) Having a management system independent of the civil service;
- (iii) Reimbursement of actual payment of RSS salary and fringe benefits to consultants, subject to various caps, with certain flexibility for deployment by consultants;
- (iv) Remuneration of RSS on-cost charges to consultants based on on-cost rates in their bids for the consultancy agreements in respect of the service related to RSS;

- (v) Reimbursement caps on salary and fringe benefits for RSS normally making reference to and not more favourable than the prevailing Government practice if appropriate;
- (vi) Minimum qualification and experience requirements for RSS comparable to the prevailing Government practice; and
- (vii) Managing departments remaining as the rejection authority for employment of any RSS who is to be employed, or who has already been employed by consultants, under the relevant provisions of the consultancy agreements.

2.2 MANAGEMENT HANDBOOK

2.2.1 To avoid the necessity to do cross-referencing to various documents, this Handbook aims to provide general guidance to managing departments on the management of direct employment of RSS by consultants for public works projects. Key elements of this Handbook consist of:

- (i) procedures for recruitment, employment, management, reimbursement and remuneration for direct employment of RSS by consultants;
- (ii) associated standard amendments to NEC Professional Service Contract (“PSC”) standard documents, *additional conditions of contract*, Contract Data, Scope and Guidelines on Preparation of Fee Proposal for the NEC form;
- (iii) associated standard Special Conditions of Employment, Schedule of Fees, Brief and Fee Proposal Proforma for the General Conditions of Employment (“GCE”) form; and
- (iv) specimens of other sample provisions, including the Schedule of Resident Site Staff Standards and Duties and invitation letter for Technical and Fee Proposals.

2.2.2 In the following Sections and associated appendixes of this Handbook, “managing department” shall mean “Director’s Representative” in the consultancy agreement in the GCE form, “*Employer’s Agent*” in the NEC3 PSC form and “*Service Manager*” in the NEC4 PSC form.

2.2.3 This Handbook is posted on the website of the DEVB or equivalent under the heading “Standard Consultancy Documents” in the “Publications” section, and will be updated from time to time when the existing works policies are modified. Changes to the arrangements on recruitment, employment, management, reimbursement and remuneration for direct employment of RSS by consultants in any existing consultancy agreements or new arrangements introduced by the DEVB (Works Branch) or equivalent (“this Branch”) before the completion of the consultancy agreements shall, subject to any instruction(s) by the managing departments to consultants, be implemented by consultants from the date the changes or new arrangements take effect.

2.2.4 Unless otherwise specified in this Handbook, prior approval of this Branch shall be obtained for any deviation from the Handbook to suit the specific needs of individual consultancy agreements.

2.2.5 If the managing department elects to adopt the scheme of direct employment of Resident Laboratory Staff (“RLS”) by consultants (the “RLS Scheme”) for management and operation of any public works laboratory under any AACSB/EACSB consultancy agreement in which the reimbursement and/or remuneration for recruitment, employment and management of RLS are similar to those of the RSS Scheme, the RLS will be regarded as RSS and this Handbook is then equally applicable to the RLS Scheme. In cases where non-standard provisions are necessary to suit the specific RLS Scheme, the managing department shall submit its proposed amendments to the standard provisions and specimen of contract provisions of the consultancy agreement with justifications to seek legal advice from LAD(W) and approval from this Branch for each case.

3.0 RSS ESTABLISHMENT

3.1 RSS ESTABLISHMENT COMMITTEE (RSSEC)

3.1.1 Each works department shall set up a RSS Establishment Committee (RSSEC), which shall normally be chaired by an officer of D3 rank, for overseeing and aligning the management of RSS-related issues within the department. The composition and terms of reference of the RSSEC is detailed in **Appendix 3.1**. For non-works departments managing consultancy agreements involving direct employment of RSS by consultants, they should set up a similar committee which should normally be chaired by an officer of D2 rank or above if appropriate. Members of the committee should include at least an officer of D1 rank and an officer of senior professional rank or above.

3.1.2 For multi-disciplinary projects, while architects or engineers may take up the major project management and supervisory role, input from other construction-related disciplines (such as surveying, landscaping, etc.) may also be essential for the success of the projects. The managing department may need to seek advice from other relevant departments/offices on other construction-related disciplines to ensure the appropriate professional and/or technical staff in such disciplines are included in the RSS establishment based on the nature, characteristics, scope, complexity, site constraints, demand of such disciplines' input, etc. of the respective projects. For provision of further technical advice to the RSSEC, the relevant in-house representatives from appropriate departments/offices or Head of Grade representatives for the concerned disciplines may be invited to attend meeting(s) with the RSSEC on a need basis.

3.2 NOTIONAL RSS ESTABLISHMENT AND MINIMUM QUALIFICATION AND EXPERIENCE REQUIREMENTS DURING CONSULTANT SELECTION EXERCISE

3.2.1 With regard to the nature, scope and complexity of the project, any departmental guidelines for RSS establishment and the experience from other similar projects, the managing department shall determine the notional RSS establishment, including the details of individual ranks, posts and periods over which the concerned posts are required and grouping the relevant ranks into

appropriate RSS categories for pricing the on-cost rates by bidders in their bids. The relevant details of the notional RSS establishment shall be included in the tender invitation documents.

3.2.2 For projects where professional / technical input from particular construction-related disciplines (e.g. surveying) is essential for the success of the projects, but the need for such full-time RSS is not justified due to reasons such as workload, cost-effectiveness, etc., the managing department should consider sharing of these RSS for different works contracts under the same consultancy agreement if appropriate. Alternatively, consideration can be made to specifying in the consultancy invitation documents that such services are to be provided by the Consultant through its own resources and/or engagement of sub-consultant(s). In such case, input at the early stage of a project is necessary and the relevant requirements including the disciplines and details of such services to be provided should be clearly stated in the invitation documents for the consultancy agreements concerned. Bidders' attention should be drawn to the relevant requirements at briefings or through other means, where appropriate, to ensure the relevant services will be reflected in the consultants' proposals.

3.2.3 If the managing department wishes to post Government staff to the Consultant for on-the-job design or site training or other purposes, it shall extend the notional RSS establishment with the notional secondment plan, including the details of individual ranks of Government staff and periods over which the concerned staff will be posted to the Consultant and grouping the relevant ranks into appropriate categories for pricing the on-cost rates by bidders in their bids.

3.2.4 With reference to the latest similar Government practice and other relevant guidelines, the managing department shall include in the consultancy agreement the Schedule of Resident Site Staff Standards and Duties which stipulates the minimum qualification and experience requirements and duties of the individual ranks stated in the notional RSS establishment.

3.2.5 Bidders shall be given an opportunity to comment on the notional RSS establishment and the Schedule of Resident Site Staff Standards and Duties before and at the pre-submission meeting. The notional RSS establishment and the Schedule of Resident Site Staff Standards and Duties shall be finalised after the pre-submission meeting and bidders shall be informed by the managing department accordingly. Any proposed amendments to the notional RSS establishment

and the Schedule of Resident Site Staff Standards and Duties shall be approved by an officer of D2 rank or above.

3.2.6 Bidders shall price the on-cost rates for various categories of the notional RSS establishment, including any proposed secondment of the Government staff, in their bids. The notional RSS on-cost charges shall be worked out by adding the totals of the multiplication of the on-cost rates priced by bidders and the respective notional numbers of man-months for different categories of RSS and Government staff in the notional RSS establishment. For assessment purpose, a “consultancy fee” shall be calculated for each fee proposal by summing (a) the lump sum fee (for the GCE form) / the tendered total of the Prices (for the NEC form), (b) the adjusted notional value for additional Services (for the GCE form) / the adjusted notional value for compensation events (for the NEC form), and (c) if applicable, the notional RSS on-cost charges.

3.3 RSS ESTABLISHMENT PROPOSAL BY THE CONSULTANT

3.3.1 At appropriate times and usually well before the commencement of works contracts for which RSS are required, the Consultant shall review and propose the appropriate RSS establishment for each works contract with regard to the nature, scope and complexity of the works contract, departmental guidelines for RSS establishment if any and the experience from other similar projects. The Consultant shall review and propose the potential sharing of some RSS for different works contracts under the same consultancy agreement or different consultancy agreements under management of the Consultant for more efficient use of resources if appropriate. The Consultant shall also review and propose the duties of each RSS in the RSS establishment. The duties of the RSS should include the respective duties as stipulated in the Schedule of Resident Site Staff Standards and Duties attached to the consultancy agreement with updates by the Consultant taking into consideration the specific project circumstances and other usual duties of the posts in which the RSS are to be employed. The Consultant shall submit the RSS establishment proposal for each works contract for acceptance by the managing department prior to the commencement of any RSS recruitment process. Prior endorsement from the RSSEC shall also be obtained for each RSS establishment proposal.

3.3.2 The Consultant shall prepare each RSS establishment proposal, which shall include but not limited to the following:

- (i) size, composition and organisation structure of the proposed RSS establishment;
- (ii) periods over which individual posts are required;
- (iii) preliminary estimated RSS costs (including salary, gratuity and mandatory provident fund, housing benefits, medical and dental care, children education benefits, etc. where appropriate);
- (iv) preliminary estimated other RSS-related expenses such as advertising costs for recruitment and costs of specified training courses;
- (v) preliminary estimated RSS on-cost charges;
- (vi) estimated contingencies for RSS costs, RSS-related expenses and on-cost charges;

- (vii) estimated provision for price adjustment for RSS costs, RSS-related expenses and on-cost charges;
- (viii) sum allowed in the approved project estimate, contingencies and provision for price adjustment for RSS-related costs for the concerned works package;
- (ix) minimum qualification and experience requirements and duties of individual ranks;
- (x) working days in a week, hours of duty in a week and normal hours of attendance for individual ranks;
- (xi) annual rate of vacation leave for individual ranks of Type A and Type B RSS;
- (xii) any deviation from this Handbook and other prevailing Government practice and/or guidelines; and
- (xiii) justifications for the proposed RSS establishment.

3.3.3 For the avoidance of doubt, the estimated contingencies and provision for price adjustment are included in the RSS establishment proposal for the purpose of internal administration of the managing department and shall not form a part of any acceptance by the managing department on the RSS establishment. Any subsequent change to the RSS establishment or price adjustment shall be assessed in accordance with Section 3.3.5 below or other relevant terms of the consultancy agreement.

3.3.4 The RSS establishment and the minimum qualification and experience requirements and duties of RSS in the RSS establishment proposal may be different from the notional RSS establishment and the Schedule of Resident Site Staff Standards and Duties to suit specific project circumstances. After seeking endorsement from the RSSEC, the relevant details in the RSS establishment proposal accepted by the managing department shall subsequently prevail. The managing department reserves the right to require the Consultant to review the accepted RSS establishment proposal at any time. For the avoidance of doubt, the managing department may normally not require the Consultant to review the accepted RSS establishment proposal due to difference between the pre-tender estimate and the tendered price of the concerned works contract.

3.3.5 For any subsequent change to the RSS establishment endorsed by the RSSEC, the Consultant shall submit the revised RSS establishment proposal for acceptance by the managing department prior to any commitment to expenditure. For any minor change involving an increase to the preliminary estimated RSS costs less than the estimated contingencies for RSS costs in the RSS establishment proposal or 10% of the original preliminary estimated RSS costs whichever is lesser, such change can be endorsed by an officer of D2 rank or above of the managing department subject to fund availability. The concerned project division shall subsequently report such minor change(s) to the RSSEC on a quarterly basis. For other changes, further endorsement from the RSSEC shall be obtained.

4.0 GENERAL PRINCIPLES FOR REIMBURSEMENT AND REMUNERATION TO THE CONSULTANT

4.1 SERVING TYPES AND STATUSES OF RSS

4.1.1 Since the implementation of the RSS Scheme, changes have been introduced to the employment terms and conditions of Government staff from time to time. As the reimbursement caps on salary and fringe benefits for RSS normally make reference to the prevailing Government practice, different mechanisms have been established for determination of the reimbursement caps for different types of RSS and serving or newly recruited RSS. Based on their first RSS employment dates and continuity of their services, RSS can be divided into two serving types, viz. “Type A” and “Type B”. Depending on their serving status, RSS can be divided into two statuses, viz. “Serving RSS” and “New Recruits”.

4.1.2 “Type A” RSS mean those RSS who were employed as RSS by consultants for any AACSB/EACSB consultancy agreements during the whole or part of the period between 16 February 2000 and 15 June 2000, and have no break in RSS service exceeding the service break period as promulgated by this Branch (the “service break period”) between RSS employment contracts since 16 June 2000. “Type B” RSS are those RSS who are not classified as “Type A” RSS.

4.1.3 “Serving RSS” mean those RSS who were employed as RSS by consultants under AACSB/EACSB consultancy agreements without a break in service between RSS employment contracts exceeding the service break period. Meanwhile, “New Recruits” of RSS mean those RSS who have not been employed as RSS by a consultant for any AACSB/EACSB consultancy agreement before, or those RSS who have a break in service between RSS employment contracts exceeding the service break period.

4.2 REIMBURSEMENT CEILING

4.2.1 Annual reimbursement ceiling for the whole RSS establishment, which is the aggregate total of various reimbursement caps on salary and fringe benefits (namely gratuity and mandatory provident fund, housing benefits, medical and dental care, children education benefits, where appropriate) for individual RSS, advertising costs for RSS recruitment as well as specified training courses determined by the Consultant in accordance with this Handbook and accepted by the managing department, shall be calculated and updated by the Consultant for each calendar year in each relevant payment application. In any case, the total of the accumulated reimbursement applied and the estimated reimbursement to be applied for each calendar year shall not exceed the respective annual reimbursement ceiling.

4.2.2 Even reimbursement caps on salary and fringe benefits for individual RSS are determined according to the established mechanisms, the Consultant shall only be allowed to be reimbursed with individual RSS's salary and fringe benefits subject to Section 4.3.26 below and that no individual RSS is paid with fringe benefits or such amounts that he/she is not entitled to. Meanwhile, the Consultant has certain flexibility for deploying the total reimbursement amongst individual RSS in whatever share the Consultant deems appropriate. The managing department should normally not be involved in the determination of the actual salary and fringe benefits to be paid by the Consultant to individual RSS, which is a matter between the Consultant and its RSS.

4.2.3 Each post in the RSS establishment shall be filled by one RSS at any one time. However, in exceptional cases where a RSS is on maternity leave or prolonged sick leave, with recommendation by the Consultant and acceptance by the managing department, a temporary staff meeting the relevant minimum qualification and experience requirements can be employed to take up the duties of the RSS concerned for a specified period as agreed by the managing department. The reimbursement caps on salary and fringe benefits for such temporary RSS for a specified period will be added in the determination of the monthly reimbursement ceiling.

4.3 REIMBURSEMENT CAPS ON SALARY AND FRINGE BENEFITS

4.3.1 Taking into account the potential reimbursement packages for site supervisory staff if they were directly employed by the Government, reimbursement caps on salary and fringe benefits of RSS in this Handbook normally make reference to and are not more favourable than the prevailing Government practice if appropriate.

4.3.2 Under such arrangement, the site supervision costs can be better managed in consultant-supervised projects and quality construction supervision and management can be achieved across public works projects.

4.3.3 Except those specified under Section 4.3 of this Handbook and the appendixes thereto, there shall be no reimbursement for other salary and fringe benefits of RSS to the Consultant. The Consultant shall obtain the prior written acceptance of the managing department on the proposed reimbursement caps on salary and fringe benefits for each RSS proposed to be employed prior to entering into any commitment to expenditure for which there is a provision for reimbursement in accordance with Section 4.3 of this Handbook. The managing department shall have the authority to adjust various reimbursement caps on salary and fringe benefits by making reference to the prevailing Government practices if appropriate. Any such confirmation by the managing department shall take precedence over any other figure, rate, cap or adjustment method specified in Section 4.3 of this Handbook and the appendixes thereto.

Reimbursement Cap on Salary

4.3.4 The reimbursement cap on salary of RSS for each calendar month shall normally make reference to the dollar amount of the appropriate point in the prevailing Government pay scale for the relevant rank, taking into account the minimum and maximum points for such rank with similar appointment date criteria. The details of the latest reimbursement cap on salary of RSS are shown in **Appendix 4.1**. For New Recruits, the reimbursement cap on salary of RSS shall normally be assigned with the minimum pay scale point of the concerned rank, but ICE may be applied by the Consultant for consideration by the managing department in accordance with Section 4.7 below if appropriate. For Serving RSS, incremental point(s) shall be added to the minimum point of the

concerned RSS rank upon appropriate period of satisfactory service at that rank in accordance with paragraph 3 of **Appendix 4.1**.

4.3.5 The reimbursement cap on salary of RSS shall be adjusted in line with any adjustments in the Government pay scales, which can be upwards or downwards. In case the adjustment in the Government pay scales is announced in the middle of a financial year and the adjustment is applied with retrospective effect from the beginning of the financial year, the same shall be applied to determine the reimbursement cap on salary of RSS. The Consultant shall include express provisions in RSS employment contracts to allow such adjustments.

Reimbursement Cap on Gratuity and Mandatory Provident Fund

4.3.6 RSS should normally be paid for end-of-contract gratuity upon completion of RSS employment contracts subject to approval of the managing department and the following conditions:

- (i) If a RSS is given overall unsatisfactory grade in his/her performance report for a certain period during RSS employment contract, he/she should only be paid for end-of-contract gratuity on a pro-rata basis with regard to the serving period with moderate or above performance upon completion of RSS employment contract;
- (ii) If a RSS is given overall poor grade in his/her performance report for any period during RSS employment contract or his/her employment is terminated by the Consultant during the employment contract period, he/she should not be paid for any end-of-contract gratuity upon completion of RSS employment contract; or
- (iii) If the Consultant and a RSS mutually agree early termination of RSS employment contract, the RSS may be paid for end-of-contract gratuity on a pro-rata basis with regard to the serving period with moderate or above performance upon termination of RSS employment contract mutually agreed by the Consultant and the RSS.

4.3.7 The Consultant shall include express provisions in RSS employment contracts to allow such adjustments in end-of-contract gratuity and to make payment of the end-of-contract gratuity subject to the approval of the managing department. For items (i) to (iii) of Section 4.3.6

above, payment due to mandatory provident fund or other statutory requirement(s) should normally not be affected due to the reduction of end-of-contract gratuity. The Consultant would not be required to refund to the managing department on any mandatory provident fund contribution or payment due to other statutory requirement(s) paid by the Consultant in such cases.

4.3.8 For Type A RSS, the reimbursement cap on the combined end-of-contract gratuity and mandatory provident fund for each calendar month shall be the reimbursement cap on salary of that RSS multiplied by the respective percentage below:

<u>Reference Government Pay Scale of That Rank</u>	<u>Combined End-of-Contract Gratuity and Mandatory Provident Fund Percentage</u>
MOD Scale	18.75%
Others	25%

4.3.9 For Type B RSS, taking into consideration the prevailing Government practice and the service break flexibility in the RSS Scheme, the reimbursement cap on the combined end-of-contract gratuity and mandatory provident fund for each calendar month shall be the reimbursement cap on salary of that RSS multiplied by the respective percentage below for new RSS employment contracts with effective from 1 August 2018. The update on the reimbursement cap on the combined end-of-contract gratuity and mandatory provident fund for clerical staff of Type B RSS will have no retrospective effect on the ongoing and previous RSS employment contracts.

<u>Reference Government Pay Scale of That Rank</u>	<u>Combined End-of-Contract Gratuity and Mandatory Provident Fund Percentage</u>
All	15%

Reimbursement Cap on Overtime Allowance

4.3.10 Time off is the normal recompense for any overtime work by RSS considered necessary and authorized by the Consultant. Overtime allowance may be paid by the Consultant for authorized overtime work by the RSS of ranks whose pay scale maxima are on or below MPS Point 25 and whose pay scale minima are on or below MPS Point 19, including RAIOW, RACOW, RWSI, RWSII, RFOII, RSO, RTO, RCO, RACO, RACO(LR), RCA, RPSII, Resident Artisan, Resident

Chainman and Resident Laboratory Assistant in their respective capacities and beyond the hours of duty in a week and normal hours of attendance for such ranks stated in the RSS establishment proposal and/or the RSS Manual whichever is the latest. The reimbursement cap on overtime allowance shall be determined by the hourly rate in accordance with the following rules:

- (i) The normal hourly rate of overtime allowance is 1/140 of the monthly reimbursement cap on salary of the concerned RSS. Where a RSS's hours of duty in a week are 44 gross per week, the hourly rate in respect of the first four hours overtime in any week for which an allowance may be claimed is 1/210 of the monthly reimbursement cap on salary of the RSS.
- (ii) Where a RSS works more than 150 hours overtime in a calendar month under an exceptional circumstance recommended by the Consultant and accepted by the managing department (personally satisfied by an officer of D2 rank or above), a consolidated overtime allowance may be claimed at the hourly rate of 1/210 of the monthly reimbursement cap on salary of the concerned RSS to any hours worked in excess of 150 hours overtime a month.

4.3.11 The Consultant shall obtain prior written acceptance of the managing department on the reimbursement cap on overtime allowance for the next calendar month at no more frequently than monthly interval, except for emergency matters in which covering acceptance may be obtained but an officer of D1 or above of the managing department shall be informed as soon as possible. The Consultant shall keep its authorization log and monitor the time sheet of authorized overtime work of its RSS.

Reimbursement Cap on Housing Benefits

4.3.12 Subject to Sections 4.3.13 to 4.3.16 below, the Consultant can only apply for reimbursement on housing benefits for eligible RSS with a salary equivalent to MPS Point 34 or above for consideration by the managing department. The reimbursement cap on housing benefits for eligible Type A and Type B RSS will normally be derived with reference to the latest rates of the Home Financing Allowance (HFA) and the Non-accountable Cash Allowance (NCA) respectively for the civil service, but shall not be more favourable than such rates. The latest reimbursement cap on housing benefits for eligible Type A and Type B RSS are shown in **Appendix 4.2**. This Branch will review the movements of the corresponding scales of the HFA and NCA, which can be upwards

or downwards, and normally promulgate the adjusted caps for the RSS Scheme on an annual basis if appropriate.

4.3.13 To take into consideration of other measures such as special arrangement for service break exemption which may incur additional spending and to align with the prevailing Government practice, the Consultant can only apply for reimbursement of housing benefits for an eligible RSS who has not been reimbursed for housing benefits from consultants for a maximum aggregate period of 120 months during his/her RSS service, irrespective of whether his/her RSS service has been broken or not, counting from RSS employment contracts commencing after 1 August 2018 associated with consultancy agreements under the purview of the AACSB or the EACSB. For the avoidance of doubt, notwithstanding the above maximum aggregate period, neither the Government nor the Consultant has any obligation to guarantee any RSS employment contract and housing benefits to any RSS. Furthermore, if the spouse of such RSS is being granted any civil service housing benefits as defined under Civil Service Regulations (CSR) 809(1)(a)(i) (except for the provisions of the NCA under CSR 2007-2020), the concerned RSS shall not concurrently apply for housing benefits from the Consultant and the Consultant shall not apply for reimbursement of house benefits for such RSS.

4.3.13A To prevent double housing benefits, if any RSS was employed as a Government officer before, the Consultant can only apply for reimbursement of housing benefits for the RSS if he/she:

- (i) did not receive any civil service housing benefits under CSR 809 at any time during his/her employment as a Government officer; or
- (ii) had received civil service housing benefits under the Home Financing Scheme under CSR 1602 or the Non-accountable Cash Allowance Scheme under CSR 2001 at any time during his/her employment as a Government officer for an aggregate period of less than 120 months; or
- (iii) had received civil service housing benefits (other than the Home Financing Scheme under CSR 1602 or the Non-accountable Cash Allowance Scheme under CSR 2001) under CSR809 at any time during his/her employment as a Government officer and the civil service housing benefits received by him/her do not constitute any double housing benefits under CSR809.

For Item (ii) above, the maximum aggregate period of 120 months for reimbursement of housing benefits for such RSS will be deducted by the period of HFA/NCA already received by him/her.

4.3.14 Eligible RSS shall declare the period(s) in which he/she has been granted any housing benefits by consultants from the RSS employment contracts commencing after 1 August 2018 associated with consultancy agreements under the purview of the AACSB or the EACSB. Furthermore, eligible RSS shall declare the period(s) in which he/she had received HFA/NCA from the Government where applicable. For the purpose of preventing, investigating and enforcing (including the taking of disciplinary action) any breach of the CSRs (including the rules on prevention of double housing benefits), the spouse of such RSS shall also declare whether he/she is being granted any civil service housing benefits as defined under CSR 809(1)(a)(i) (except for the provisions of the NCA under CSR 2007-2020) by the Government if the spouse is employed by the Government. The relevant sample declaration forms are at **Appendixes 4.3 and 4.4**.

4.3.15 The Consultant shall verify the information provided by RSS, submit the verified information, including the declarations from RSS and their spouses, and seek confirmation from the managing department on reimbursement caps on housing benefits before entering into, renewing or extending employment contracts with the RSS concerned. The managing department shall verify the relevant information provided by the Consultant and the RSS concerned against that in the RSS Database under Section 6.4, clarify any discrepancy with the Consultant and the RSS concerned if necessary, and input any verified update (e.g. new period of reimbursement granted, change in reimbursement end date, etc.) into the RSS Database. The managing department shall also arrange to input the verified housing benefits records (if any) of the RSS concerned under his/her previous employment contract(s) commencing after 1 August 2018 in connection with consultancy agreement(s) under the purview of the AACSB or the EACSB into the RSS Database..

4.3.16 The Consultant shall ensure that the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) are fully complied with in its collection of the personal data of RSS and their spouses, and the transfer of such data to the Government and/or consultants who are involved in or in connection with recruitment, employment or management of RSS under other consultancies managed by the Government as and when required. These include the requirement to inform RSS and their spouses, on or before the collection of their personal data, of the purposes for which the data

are to be used and the transfer of such data to the Government and/or consultants who are involved in or in connection with recruitment, employment or management of RSS under other consultancies managed by the Government as and when required.

Reimbursement Cap on Medical and Dental Care

4.3.17 The latest reimbursement cap on medical and dental care for each RSS per calendar year is shown in **Appendix 4.5**. This Branch will review such reimbursement cap with reference to the annual change in Composite Consumer Price Index for medical services on an annual basis if appropriate. If any RSS's employment contract does not cover for the whole calendar year, such reimbursement cap shall be adjusted on a pro-rata basis.

4.3.18 Subject to the reimbursement cap, only payments actually incurred on expenditure for medical treatment, dental treatment, hospital maintenance fees, or medical aid and health insurance chargeable for medical and dental care purposes in Hong Kong for RSS and their dependent family members can be counted towards the reimbursement. Any costs paid to RSS or the Consultant by insurers shall be deducted from the reimbursement.

4.3.19 "dependent family members" means the RSS's spouse and children (including children of divorced/legally separated RSS, step-children, adopted children and illegitimate children) who are unmarried and under the age of 21. In the case of children aged 19 or 20, they must also be in full time education or in full time vocational training, or dependent on the RSS as a result of physical or mental infirmity.

Reimbursement Cap on Children Education Benefits

4.3.20 The Consultant can only apply for reimbursement on children education benefits for eligible Type A RSS for consideration by the managing department. The reimbursement cap on children education benefits for Type A RSS will normally be derived with reference to the latest rates of the Local Education Allowance (LEA) for the civil service, but shall not be more favourable than such rates. The latest reimbursement cap on children education benefits for Type A RSS is shown in **Appendix 4.6**. This Branch will review the movements of the corresponding rates of the LEA, which can be upwards or downwards, and promulgate the adjusted cap for the RSS Scheme on a need basis if appropriate.

4.3.21 Eligible RSS's spouse shall declare not to be in receipt of similar benefits under his/her term of employment and the sample declaration is at **Appendix 4.7**. Eligible RSS shall also substantiate that his/her children (up to a maximum of four children at any one time) below 19 years old shall attend schools included in the Approved Schools List of the LEA for the civil service, which can be accessed through the Civil Service Bureau (CSB)'s website below (The Consultant may request the managing department to provide such list if necessary.):

http://csb.host.ccg.hksarg/forms/educationandschoolpassageallowances/LEA_School_List.pdf

4.3.22 Subject to the reimbursement cap, 75% of the school fee for primary schools and secondary schools up to Form III, and 75% of the school fee after deducting a basic charge for Form IV and above can be counted towards the reimbursement. The basic charge will be adjusted in line with the standard fee for Form IV and above in government and aided schools set by the Education Bureau. "school fee" means the particulars of the inclusive fee printed on a certificate in the specified form issued by the Education Bureau to the management authority of a school.

4.3.23 If any RSS's employment contract does not cover for the whole academic year (assuming from August to July next year), the reimbursement cap on children education benefits shall be adjusted on a pro-rata basis. If any RSS is employed under two different RSS employment contracts for the same academic year, he/she is allowed to apply for the reimbursement on children education benefits from two different consultancy agreements on a pro-rata basis with respect to the serving period of each RSS employment contract in the concerned academic year provided that the Consultant and RSS shall substantiate no double benefit is involved.

Reimbursement Cap on Passage Allowance

4.3.24 The Consultant shall use their best endeavours to recruit RSS living in Hong Kong. For any proposed RSS living overseas, a relevant visa/entry permit for employment in Hong Kong shall be obtained from the relevant authority prior to employment as RSS.

4.3.25 For same treatment to RSS living in Hong Kong and overseas before commencement of RSS employment contracts, there will be no reimbursement for passage allowance for RSS living overseas for RSS employment contracts commencing after 1 August 2018.

Accountability

4.3.26 Subject to various reimbursement caps, the rules on “accountability” set under this Section shall be satisfied before any salary and fringe benefits of RSS invoiced by the Consultant are reimbursable:

- (i) The Consultant shall be accountable for the amount invoiced in respect of reimbursement of salary, end-of-contract gratuity, overtime allowance and housing benefits expenditure on RSS. That is, the amount shall have been paid by the Consultant to RSS and evidenced by receipts acknowledged by RSS; and
- (ii) The Consultant and RSS shall be additionally accountable for the amount invoiced in respect of mandatory provident fund, medical and dental care and children education benefits. That is, only the amount paid by the Consultant to service providers as evidenced by receipts from the respective service providers, and actually spent on the respective purposes for RSS and within the conditions as stipulated in this Handbook for the respective fringe benefits can be counted towards the reimbursement.

4.3.27 Within one month after payment made to RSS or service providers where appropriate, the Consultant shall submit the payment records and relevant receipts acknowledged by RSS as referred to in Section 4.3.26(i) above and the payment records and receipts from service providers as referred in Section 4.3.26(ii) above to the managing department.

4.3.28 The Consultant shall regularly review the respective reimbursement caps, reimbursements, and the monthly reimbursement ceilings and reimbursements in each month and following month. The Consultant shall certify the calculations and submit the documents to the managing department at not more frequently than monthly intervals. If any calculation is subsequently found to be incorrect and to have resulted in excess reimbursement to the Consultant, then the excess shall be recovered as a debt from the Consultant through deduction from subsequent reimbursement or where it is not sufficient, for the purpose of such deduction, from monies due to the Consultant under the consultancy agreement or any other consultancy agreements between the Government and the Consultant.

Prevention of Double Benefit During Terminal Leave Period

4.3.29 If any RSS during the terminal leave period before expiry of his/her RSS employment contract fills up the RSS post in another AACSB/EACSB consultancy agreement, the managing department shall only reimburse the salary and mandatory provident fund of the concerned RSS for the terminal leave period to the Consultant, but not any other fringe benefits (including but not limited to end-of-contract gratuity, housing benefits, medical and dental care and children education benefits) to prevent double benefits for the concerned RSS during the terminal leave period. The Consultant and RSS shall also follow the procedures as stipulated in Section 5.12 of this Handbook for outside work before RSS can take up the RSS post in another AACSB/EACSB consultancy agreement during the terminal leave period.

4.4 SERVICE BREAK PERIOD

4.4.1 Referring to Sections 4.1.3 and 4.3.4, to make the arrangement more comparable with the prevailing Government practice, service break period has been introduced to the RSS Scheme, thus allowing the Serving RSS to have the reimbursement cap on salary carried over to the next RSS employment contract if employed for the same rank.

4.4.2 Under DEVB TC(W) No. 4/2008 promulgated on 10 September 2008, the service break period has been extended from four to twelve calendar months with effect from 1 April 2008. Such amendment has no retrospective effect on the reimbursement caps already determined according to the rules in force before 1 April 2008.

4.4.3 In order to enhance the resilience of the RSS Scheme with respect to the fluctuating amount of new public works projects with funding approved, the service break period has been further extended from twelve to twenty four calendar months through the DEVB's circular memorandum ref. DEVB(PS) 106/15/3 dated 17 October 2017. The revised arrangement has no retrospective effect on the reimbursement caps already determined according to the rules in force before the date of that circular memorandum.

4.4.4 With effective from 1 August 2018, the service break period is further extended to sixty calendar months. The revised arrangement has no retrospective effect on the reimbursement caps already determined according to the rules in force before that date.

4.5 SPECIAL ARRANGEMENT FOR SERVICE BREAK EXEMPTION

4.5.1 In order to enrich the skills and experience of RSS which would benefit the supervision of public works projects in long run, the Government has introduced special arrangement for RSS employed for entrusted public works projects through the circular memorandum ref. DEVB(PS) 106/15/3 dated 9 August 2011. Under the special arrangement, RSS who have left the RSS Scheme to work for full-time site supervision in entrusted capital works projects under the Capital Works Programme under Head 703 to 707 and 709 to 711 of the Capital Works Reserve Fund (CWRF) in form of direct employment by the trustees and subsequently re-join the RSS Scheme,

are not considered as taking service break. The special arrangement has no retrospective effect on any service break already determined according to the rules in force before the date of that circular memorandum.

4.5.2 To further enhance the exchange of knowledge and skills of site supervisory staff and benefit the infrastructure development in Hong Kong as a whole in long term, with effective from 1 August 2018, the special arrangement for service break exemption is revised to cover:

- (i) entrusted capital works projects under Head 702 to 707, 709 and 711 of the CWRF;
- (ii) capital subventions projects under Head 708 of the CWRF;
- (iii) capital works/infrastructure projects implemented by statutory bodies wholly owned by the Government; and
- (iv) capital works/infrastructure projects for public service or public use purposes implemented by private organizations that fall within the ambit of the Government's policy initiatives.

4.5.3 For the latest definition of the Capital Works Programme, reference should be made to paragraph 2 of Financial Circular No. 7/2017 or its update or replacement. Under the revised special arrangement, RSS who have left the RSS Scheme to work for full-time site supervision in the projects as listed in Section 4.5.2 above, in form of direct employment by the relevant trustees, subvented organisations, private organisations or their main consultants, and subsequently re-join the RSS Scheme, will not be considered as taking service break. The revised special arrangement has no retrospective effect on any service break already determined according to the rules in force before 1 August 2018.

4.5.4 As it is difficult to compare the duties, responsibilities and remuneration packages offered by different employers to their site supervisory staff with those of the RSS Scheme, the experience the RSS gained in the projects as listed in Section 4.5.2 above would normally not be considered in determining the reimbursement cap on salary when they re-join the RSS Scheme.

4.5.5 For any ambiguity on whether any specific case falls within item (iv) of Section 4.5.2 above or not, the RSSEC of the managing department shall have the authority to make its decision which shall be final. Prior consultation with this Branch may be required if necessary.

4.6 SERVING RSS TAKING UP LOWER RANK JOBS

4.6.1 Due to the workload cycle of the construction industry, it was not uncommon that some RSS experiencing difficulties in securing new jobs might choose to take up jobs lower in rank than their former ones. Through the circular memorandum ref. DEVB(PS) 106/15/3 dated 9 August 2011, the Government has introduced the special arrangement to allow any Serving RSS who has undertaken a lower rank job of the same grade and is subsequently re-appointed to his/her former rank to resume the reimbursement cap on salary at that upper rank if the period of service in the lower rank does not exceed twelve calendar months. Meanwhile, another service break period of twelve calendar months before or after the lower rank job was previously allowed.

4.6.2 In view of the extension of the service break period to sixty calendar months as mentioned in Section 4.4.4 above, the special arrangement is extended to allow any Serving RSS who has undertaken a lower rank job of the same grade with satisfactory service as determined under Section 6.3.2 below for a RSS employment contract of one year or longer period and is subsequently re-appointed to his/her former rank to resume the reimbursement cap on salary at that upper rank within seventy-two calendar months from the expiry of the RSS employment contract in his/her former rank. Also, his/her previous satisfactory service at that upper rank will be considered during the determination of the incremental date and the calculation of any increment point later if appropriate.

4.6.3 The reimbursement cap on salary of the RSS taking a lower rank job of the same grade can normally resume the original reimbursement cap on salary (including the original incremental date) at that lower rank and the incremental points he/she may obtain assuming his/her service had been continuous at that lower rank rather than the upper rank (subject to the actual serving period at the upper rank).

4.6.4 The special arrangement in Sections 4.6.2 and 4.6.3 above also applies to Serving RSS of clerical rank who has undertaken a clerical rank job of different grade and with lower minimum point, as if it is a lower rank job of the same grade.

4.7 INCREMENTAL CREDIT FOR EXPERIENCE (ICE) FOR NEW RECRUITS

4.7.1 With reference to the similar arrangement for granting of ICE in the civil service under Civil Service Bureau Circular No. 2/2015, ICE may be granted to New Recruits of RSS with relevant previous experience under the following circumstance:

- (i) when a RSS rank is faced with recruitment difficulty because candidates with the stipulated minimum experience are unavailable, in short supply or of poor quality; and
- (ii) where for operational reasons there is a specific need (not merely desirable) to recruit RSS whose relevant experience is particularly valuable.

Recruitment Difficulty

4.7.2 The Consultant shall assist the managing department to assess whether recruitment difficulty for any RSS rank is envisaged in the upcoming RSS recruitment exercises. The Consultant shall assess the prevailing conditions in the labour market at the time of recruitment and provide the information to the managing department for reference. The managing department should also make reference to the relevant information of the past two years or two completed recruitment exercises for the same rank or grade where appropriate in the civil service, whichever is the more recent time interval. Normally, if ICE is granted to new appointees of the same rank or grade where appropriate in the civil service, subject to the further recommendation by the Consultant, the managing department may consider approving the granting of ICE to New Recruits of RSS of the same rank or grade.

Specific Need and/or Operational Reasons

4.7.3 The Consultant may take into account relevant management considerations in justifying the need for granting ICE for consideration by the managing department. For example, even though there are sufficient candidates meeting the minimum entry requirements, the Consultant may take into account a host of manpower management factors in selecting the most suitable candidates (e.g. overall experience profile of the RSS teams, additional experienced staff required to handle urgent projects, etc.).

4.7.4 The Consultant shall justify that there is/are specific need and/or operational reasons to recruit RSS with experience, and such relevant experience should be defined. The criteria for consideration may include whether the concerned RSS post has a distinct requirement for experience (such as experience in a narrower / specialised field in addition to what has already been included in the entry requirements), and how such experience is relevant to the duties and performance of the RSS post (i.e. particularly valuable for operational reasons).

Special Arrangement for Recruitment Difficulty Exemption

4.7.5 Unlike the civil service, RSS are direct employees of the Consultant. Therefore, the Consultant may need to have some flexibility to form its RSS team appropriate to meet the specific project requirements for site supervision and contract management. Under special circumstances, the Consultant may justify and apply exemption of recruitment difficulty criterion for consideration by the managing department after RSS recruitment exercises. The criteria of consideration may include whether the concerned RSS have the special knowledge and/or experience required for the projects involving uncommon or advanced structural form, construction method or technology, or whether there is a substantial increase in the required number of such particular RSS rank/post due to new policies or surge of particular types of construction works, so that there may not be sufficient number of Serving RSS with adequate knowledge and experience for quality control and risk management of such projects. Any case involving labour relations officer/assistant clerical officer (labour relations) or equivalent provided by contractors for the Government in-house-supervised projects (with his/her previous employment contract satisfactorily completed within sixty months before new RSS employment contract) in which contractors were directly reimbursed in a similar way to the RSS Scheme may also be applied for exemption if considered appropriate by the Consultant.

Determination of Incremental Points

4.7.6 The number of incremental points to be added may follow the similar provision in the consultancy agreement for the Serving RSS. The Consultant shall decide on the scale of provision taking into account the particular circumstances of each case (e.g. it may only be necessary to offer increment for every few years of experience). In any case, ICE shall not exceed one increment for every complete year of relevant experience as at the date of assumption of duty. Residual experience in excess of full years of New Recruits of RSS shall not be recognized (e.g. his/her annual incremental date shall not be advanced for this purpose). Unless under exceptional circumstances, the granting of ICE shall normally be capped at mid-point salary or five increments, whichever is the lower, of the RSS rank concerned. The rationale of the proposed scale of granting ICE shall be clearly spelt out and documented by the Consultant for consideration by the managing department.

Approving Authority for Granting ICE to New Recruits

4.7.7 To streamline the approval procedures and ensure consistency on granting of ICE to New Recruits of RSS within the department, prior endorsement shall be obtained from the RSSEC or an officer of D3 rank, before the managing department may accept the Consultant's proposal and then the Consultant may enter into any employment contract with the RSS concerned.

4.8 REIMBURSEMENT OF ADVERTISING COSTS FOR RECRUITMENT OF RSS

4.8.1 Subject to acceptance of the managing department on the proposed channel(s) for publicizing RSS recruitment notices, the Consultant will normally be reimbursed reasonable advertising costs incurred in the recruitment of RSS. The Consultant shall obtain the written acceptance of the managing department prior to entering into any commitment to such expenses. Sections 4.3.26 to 4.3.28 on accountability shall similarly apply to reimbursement of advertising costs for recruitment of RSS.

4.9 REIMBURSEMENT OF SPECIFIED TRAINING COSTS FOR RSS

4.9.1 To encourage the Consultant to release RSS to attend the specified safety training courses, the Consultant shall be reimbursed for the actual expenses for such courses, instead of absorbing the expenses in the RSS on-cost rates in the new consultancy agreement. The list of the specified safety training courses is shown in Tables 1 and 2 of **Appendix 4.8**.

4.9.2 To enhance the management of works contracts in the NEC form if proposed under the consultancy agreement, the Consultant shall be reimbursed for the actual expenses for providing training to RSS at senior professional ranks or above for not more than four-day NEC project manager accreditation training course, NEC construction professional certification training course or equivalent recognized by international or local construction-related professional institution/institute.

4.9.3 The latest reimbursement caps on specified training courses are shown in **Appendix 4.9**. This Branch will review and promulgate any adjusted reimbursement cap on specified training courses on a need basis if appropriate. Sections 4.3.26 to 4.3.28 on accountability shall similarly apply to reimbursement of specified training costs for RSS.

4.10 ADJUSTMENT FOR UNPAID LEAVE SCENARIO

4.10.1 If any unpaid leave scenario associated with sick leave, maternity leave or paternity leave is encountered, the Consultant shall reduce the reimbursement cap on salary of the concerned RSS based on the normal daily rate which is $12/365$ of the monthly reimbursement cap on salary of that RSS.

4.11 REMUNERATION FOR SERVICES IN RESPECT OF RSS

4.11.1 The Consultant shall be remunerated with RSS on-cost in respect of the service related to RSS based on RSS on-cost rates in the consultancy agreement. The RSS on-cost rates shall be all-inclusive rates. They shall cover all costs of the Consultant in respect of the service related to

RSS, including but not limited to recruitment, employment, management, administration, temporary or permanent replacement, training (other than specified training courses), continuous professional development, professional indemnity insurance, employees' compensation insurance, overheads and profit.

4.11.2 Similarly, for Government staff posted to the sites for on-the-job training, the on-cost rates shall cover all costs the Consultant may incur for the administration of such Government staff, its overheads and profit. Upon request by the managing department, the Consultant shall also provide design training to engineering graduates employed by the Government under its graduate training scheme and seconded to the Consultant. The design training shall meet the requirements of professional training of appropriate professional institution(s)/institute(s) as instructed by the managing department. The same on-cost rate shall also apply for such case. The posting period of any Government staff to the Consultant shall be provided and updated by the managing department from time to time.

5.0 RECRUITMENT AND EMPLOYMENT OF RSS

5.1 OPEN AND FAIR RECRUITMENT EXERCISES

5.1.1 The Consultant shall conduct RSS recruitment exercises in an open and fair manner as far as practicable. For RSS service of a temporary nature with a short duration or for urgent and exceptional circumstances which may render open recruitment impracticable, the Consultant shall provide full justifications and seek prior written acceptance by the managing department for exemption of open recruitment procedures.

5.1.2 To take into account the continuity of training for professional graduates, subject to prior written acceptance by the managing department for exemption of open recruitment procedures, the Consultant may deploy its professional graduates who have not yet obtained the relevant professional qualifications to take up the assistant professional ranks of the RSS team for the purpose of training pertinent to the acquisition of the concerned professional qualifications. The concerned professional graduates with more than 18 months but less than 3 years professional training may enter at appropriate points below the minimum pay scale point of the relevant assistant professional ranks depending on every complete year of relevant experience as at the date of assumption of duty. Residual experience in excess of full years of the appointees shall not be recognized (e.g. his/her annual incremental date shall not be advanced for this purpose).

5.1.3 Normally, recruitment notices for RSS vacancies should be posted in at least one local newspaper in each language (English and Chinese) or equivalent online recruitment platform (in both English and Chinese), or dedicated webpage on construction jobs of the Interactive Employment Service (iES) of the Labour Department as described in Section 5.1.4 to 5.1.6 below, or other channel(s) as agreed by the managing department, for open invitation of applications. The brief details of the project such as project/contract numbers, project/contract titles, locations of projects/contracts, etc. should be provided in the recruitment advertisements for RSS.

5.1.4 The managing department will request the Consultant to conduct a pilot trial to post RSS recruitment notices on the Labour Department's dedicated webpage on construction jobs of the Interactive Employment Service (iES) with the link below:

http://www2.jobs.gov.hk/1/0/WebForm/information/en/construction_jobs/page2.aspx

5.1.5 The Consultant shall liaise with the Labour Department for advertising its RSS vacancies on the dedicated webpage on construction jobs of the iES. Normally, the recruitment notices for the “Professional”, “Technical” and “Clerical” categories of RSS ranks should be posted under the “Site Administration”, “Site Supervision” and “General Admin/Clerical Posts” icons of that webpage respectively. This Branch and the managing department may create links in their websites to the iES website to facilitate the dissemination of the RSS recruitment information if appropriate.

5.1.6 After the pilot trial, this Branch and the managing department may conduct a review before requesting the Consultant to shift all RSS recruitment notices to the iES website of the Labour Department.



Figure 1 – Labour Department’s Dedicated Webpage on Construction Jobs of Interactive Employment Service (iES)

5.1.6A The Consultant shall obtain the consent of the applicants for RSS vacancies for the collection of their name(s) and identity card number(s) (or passport number(s)), and the transfer of such personal data to the Government, for the purpose of retrieval of any of their unsatisfactory/poor performance reports and poor performance records from the RSS Database. The Consultant shall ensure that it fully complies with the Personal Data (Privacy) Ordinance (Cap. 486) in its collection, use and transfer of the personal data of the applicants, including the requirement to inform the applicants, on or before the transfer of their personal data, of the purposes for which the data are to be used and the transfer of such data to the Government for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government.

5.1.7 The Consultant shall submit the names and identity card numbers (or passport numbers) of the applicants to the managing department for the purpose of retrieval of any of their unsatisfactory/poor performance reports and poor performance records from the RSS Database. Recruitment interviews should then be conducted for the selection of candidates. All the staff of the Consultant involved in RSS recruitment exercises shall declare whether they have any actual, potential or perceived conflict of interest before the recruitment exercises and as soon as they become aware of any conflict of interest. If any latter circumstances have arisen during the RSS recruitment exercises, the Consultant shall implement suitable remedial measures and notify the managing department as soon as possible. For instance, the Consultant's staff having any conflict of interest declared shall abstain from further involvement in the concerned recruitment exercise. For avoidance of doubt over any conflict of interest for the purpose of RSS recruitment exercises only, where there is any potential RSS candidate from the Consultant's own organization, such employment relationship itself would normally not be considered as an actual, potential or perceived conflict of interest.

5.1.8 Before the commencement of any RSS recruitment exercise, the Consultant shall submit the minimum qualification and experience requirements for the RSS posts, selection criteria for recruitment interview and job offer, criteria for setting up a waiting list and its validity period (normally not longer than twelve calendar months) for comments by the managing department. The submission shall also include the details of recruitment board members and the declarations of any conflict of interest by all its staff who will participate in the recruitment exercise. The managing department should check to ensure there are no unfair selection criteria (e.g. marks/credits allocated for having worked for the concerned consultant or department, etc.). Since RSS are direct employees

of the Consultant, the staff of the managing department should normally not participate in the interviewing process and assessment of the recruitment exercise.

5.1.9 After the completion of any RSS recruitment exercise, the Consultant shall submit the interview records and assessment leading to job offer and the details of job offer and waiting list to the managing department. The Consultant shall substantiate that any candidate recommended for job offer is the most suitable for the human resources management and overall experience profile of the RSS team for the concerned project. The Consultant shall destroy all the reports and records retrieved from the RSS Database within three months after obtaining consent for RSS employment as stipulated in Section 5.5.

5.1.10 The Consultant shall take note of the Competition Commission Advisory Bulletin dated 9 April 2018 and ensure compliance with the Competition Ordinance (Cap. 619) for recruitment and employment of RSS. The Competition Commission Advisory Bulletin dated 9 April 2018 is available in the link below:

https://www.compcomm.hk/en/media/press/files/20180409_Competition_Commission_Advisory_Bulletin_Eng.pdf

5.2 MINIMUM QUALIFICATION AND EXPERIENCE REQUIREMENTS

5.2.1 The minimum qualification and experience requirements for RSS shall make reference to the Schedule of RSS Standards and Duties attached to the consultancy agreement and the prevailing Government practice for the same rank if appropriate. The Consultant shall make its own arrangements to recruit and employ appropriate persons to fill the RSS posts who meet the minimum qualification and experience requirements and are competent to carry out the respective duties. It is the Consultant's responsibility to verify whether the qualifications of individual candidates meet or are equivalent to the required qualifications for the RSS posts.

5.2.2 For the minimum professional qualification requirement, the professional ranks of the RSS should possess the professional membership of the relevant professional institution or institute in Hong Kong or equivalent. Overseas professional qualifications under the mutual recognition by the relevant professional institution or institute in Hong Kong are normally considered as equivalent. For any Serving RSS with an overseas professional qualification with termination of mutual recognition by the relevant professional institution or institute in Hong Kong after he/she joined the RSS Scheme, provided that his/her overseas professional qualification is still being maintained, he/she may still be considered to have met the minimum qualification requirement if the Consultant has reviewed the qualification and experience of the concerned RSS which are considered to be comparable to the requirements of the relevant professional institution or institute in Hong Kong and it can apply for exemption from the managing department. However, the Consultant shall encourage the concerned RSS to apply for the professional membership in Hong Kong as soon as possible.

5.2.3 Since the minimum academic and experience requirements for the assistant professional, technical and clerical ranks may vary from time to time, the Consultant shall review whether any Serving RSS was considered to meet the minimum academic and experience requirements for his/her current rank in force when he/she was first appointed at that rank under any AACSB/EACSB consultancy agreement, and satisfy itself whether the concerned RSS continues to be competent to take up his/her current rank. Any subsequent change(s) to the minimum academic and experience requirements for the assistant professional, technical and clerical ranks will have no retrospective effect on the ongoing and previous RSS employment contracts of the Serving RSS and no effect to the reimbursement cap on salary of the concerned RSS at his/her current rank in any RSS employment contract in future which shall be determined in accordance with this Handbook.

5.3 POOR PERFORMANCE RECORDS AND CONVICTION RECORDS

5.3.1 In view of the important role played by RSS in site supervision and contract management of public works projects, the performance reports with “Unsatisfactory” or “Poor” overall performance grades (i.e. “unsatisfactory/poor performance reports”) and poor performance records (as defined in Section 1.2.1(h)) of RSS should be taken into account for consideration of disapproval of any proposed RSS employment.

5.3.2 The Consultant shall notify the managing department in writing as soon as possible if it has rated any RSS’ overall performance grades as “Unsatisfactory” or “Poor” in any performance reports, irrespective of whether the RSS employment contract is terminated, or any appeal on the RSS’ performance report has been made, and provide the managing department with the relevant performance report. The Consultant shall include a condition in RSS employment contracts that the RSS’ name(s) and identity card number(s) (or passport number(s)) and all unsatisfactory/poor performance reports and poor performance records will be transferred to the Government who will input them into the RSS Database for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government. The sample statement to be signed by RSS for signifying consent for the Consultant to transfer their personal data and unsatisfactory/poor performance reports and poor performance records to the Government who will input them into the RSS Database for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government is at **Appendix 5.1**.

5.3.3 The Consultant shall require the applicants for RSS vacancies to submit declarations to declare whether or not they have been convicted of offences under the Crimes Ordinance (Cap. 200), the Prevention of Bribery Ordinance (Cap. 201) or the Theft Ordinance (Cap. 210), or the offence of conspiracy to defraud, or the offence of misconduct in public office, and whether or not they have been terminated for employment as a RSS. Such submission by any applicant shall be a condition precedent for any proposed employment by the Consultant. The Consultant shall make clear to the applicants that the information contained in the declarations shall be transferred to the Government who will input them into the RSS Database for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government, and obtain the consent of the applicants. The relevant sample declaration form is at **Appendix 5.2**.

5.3.3A The Consultant shall comply with the Personal Data (Privacy) Ordinance (Cap. 486) in its collection and use of the personal data of RSS, the transfer of such data to the Government for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government.

5.3.4 The Consultant shall submit the declarations made by the prospective RSS to the managing department at least two weeks prior to offering any employment contracts to the prospective RSS. The information in the declarations shall be taken into account in considering whether the Consultant's proposal for the proposed RSS employment should be disapproved or not.

5.3.5 The Consultant shall terminate the employment of any RSS who has given false information in the declaration or is convicted of offences under the Crimes Ordinance (Cap. 200), the Prevention of Bribery Ordinance (Cap. 201) or the Theft Ordinance (Cap. 210), or the offence of conspiracy to defraud, or the offence of misconduct in public office, during employment. RSS shall report any charge of the above offences to the Consultant as soon as possible and the Consultant shall make any necessary arrangement to avoid any conflict of interest when such charge is known. Such provisions for termination of RSS employment and reporting of any charge shall be included in the employment contracts between the Consultant and RSS. The Consultant shall include a condition in RSS employment contracts that the RSS's personal data, reporting of any charge and conviction records for the above offences will be transferred to the Government who will input them into the

RSS Database for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government.

5.3.6 The Consultant shall, in the RSS employment contracts, explicitly prohibit RSS from soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201), and soliciting or accepting any excessive hospitality, entertainment or inducements which could impair their impartiality in relation to the Government projects.

5.3.7 The Consultant shall seek its own legal advice on its rights and obligations in connection with its responsibilities under this Handbook, in particular, the Personal Data (Privacy) Ordinance (Cap. 486).

5.4 CONFLICT OF INTEREST AND NON-DISCLOSURE OF INFORMATION TO OUTSIDE PARTIES

5.4.1 The Consultant shall request the applicants for RSS vacancies to declare whether they have any actual, potential or perceived conflict of interest for taking up of the posts being applied. Such submission by any applicant shall be a condition precedent for any proposed employment by the Consultant. The Consultant shall monitor and take into account any conflict of interest declared by the applicants in RSS recruitment exercises. The Consultant shall make clear to the applicants that the information contained in the declarations shall be disclosed to the Government and obtain the consent of the applicants. The relevant sample declaration form is at **Appendix 5.2**.

5.4.2 The Consultant shall submit the declarations made by the prospective RSS to the managing department at least two weeks prior to offering any employment contracts to the prospective RSS. The information in the declarations shall be taken into account in considering whether the Consultant's proposal for the proposed RSS employment should be disapproved or not. The Consultant shall remind each RSS upon employment to strictly observe the probity requirements on declaration of conflict of interest as and when it arises, and shall take necessary actions to mitigate any conflict of interest declared by RSS.

5.4.3 The Consultant shall ensure that RSS shall not reveal any information, irrespective of whether they are confidential, restricted or privileged, relating to the consultancy agreement and associated works contracts to any third party without any prior written consent of the managing department through the Consultant, except when necessary to carry out their duties under RSS employment contracts related to the consultancy agreement and associated works contracts. The Consultant shall ensure that RSS shall not make the project information public by interviews, speeches, letters and articles in the press, talks and discussions on radio and television programmes, unless prior written consent has been obtained from the managing department through the Consultant.

5.5 CONSENT BEFORE RSS EMPLOYMENT

5.5.1 The Consultant shall furnish the managing department with the name and particulars of the prospective RSS it intends to employ in each post on the RSS establishment, the details of the recruitment exercises as stipulated in Sections 5.1.9, 5.3.4 and 5.4.2 above and the proposed reimbursement caps on salary and fringe benefits as stipulated in Section 4.3.3 above at least two weeks for consideration by the managing department prior to offering any employment contracts to the prospective RSS. The Consultant shall furnish further information pertinent to the proposed employment of the RSS if required by the managing department.

5.5.2 The managing department shall have the authority at any time to reject the employment of any person who is to be employed, or who has already been employed by the Consultant on the RSS establishment if, in the opinion of the managing department, the person:

- (i) does not meet the minimum qualification and/or experience requirements; or
- (ii) is not the most suitable person for the human resources management and overall experience profile of the RSS team for the concerned project; or
- (iii) misconducts/misconducted himself/herself or is/was incompetent or negligent in the performance of his/her RSS duties; or
- (iv) is/was convicted of offences under the Crimes Ordinance (Cap. 200), the Prevention of Bribery Ordinance (Cap. 201) or the Theft Ordinance (Cap. 210), or the offence of conspiracy to defraud, or the offence of misconduct in public office; or
- (v) has any unsatisfactory/poor performance reports or poor performance records during his/her previous RSS service; or
- (vi) is found with false information given by him/her or his/her spouse in any declaration; or
- (vii) whose employment is otherwise considered by the managing department to be undesirable.

For item (i), (iii), (iv) or (v) above, if an officer at D2 rank or above of the managing department is personally satisfied that the individual is the most suitable person for the RSS post concerned, after

due consideration of all relevant factors with a detailed assessment endorsed by the RSSEC of the managing department, the managing department may still not reject the RSS employment.

5.5.3 The managing department shall state the reasons for the rejection but the Consultant shall not disclose the reasons to any person unless with prior written consent of the managing department.

5.5.4 In the event of the managing department exercising rejection under Section 5.5.2 above, the person, if not already employed, shall not be employed, and that person, if already employed, shall have his/her RSS employment curtailed by the Consultant as soon as possible.

5.5.5 The responsibilities of the Consultant in connection with the service related to RSS shall not be affected, irrespective of whether or not the managing department rejects the employment of any person under Section 5.5.2 above.

5.6 WORKING PERIOD

5.6.1. RSS may be required to work on gazetted general holidays, at night or on shift, as directed by the Consultant to suit the specific circumstances and progress of the Government projects.

5.6.2 Making reference to the following working days in a week and hours of duty in a week (subject to any provision more favourable to the RSS under the Employment Ordinance) and taking into account the latest works progress and site operation of relevant works contracts associated with the consultancy agreement, the Consultants shall prepare and submit the proposals on working days in a week, hours of duty in a week and normal hours of attendance for each RSS rank and post for consideration and acceptance by the managing department from time to time.

<u>Rank</u>	<u>Working days in a week</u>	<u>Hours of duty in a week</u>
RAIOW, RACOW, RFOIL, RSO, RTO, RACO, RACO(LR),RCA, RPSII, and those ranks other than RWSI whose minimum pay scale point is above MPS 13	5 or 5.5 days	44 hours gross (i.e. including lunch break)
All other ranks	5.5 or 6 days	45 hours net (i.e. excluding lunch break)

For the purpose of this Section only, a working day means a day other than a Sunday.

5.6.3 If a gazetted general holiday occurs, the hours of duty for that week may be reduced by the same number of hours which RSS normally work on that particular day.

5.7 VACATION LEAVE

5.7.1 Subject to any provision more favourable to the RSS under the Employment Ordinance as well as the proposal by the Consultant and acceptance by the managing department, for which reimbursement caps on salaries and fringe benefits of RSS are not adjusted, maximum annual vacation leave rates of RSS shall not exceed the following:

For Type A RSS,

<u>Reference pay scale point of the concerned RSS (substantive rank)</u>	<u>Maximum rate of vacation leave per one year of RSS service</u>
MOD Scale	18 days
MPS 0 - 13	24 days
MPS 14 or above	31 days

For Type B RSS,

<u>Reference pay scale point of the concerned RSS (substantive rank)</u>	<u>Maximum rate of vacation leave per one year of RSS service</u>
MOD Scale & MPS 0 - 13	14 days
MPS 14 - 49	18 days
D1 or above	22 days

5.7.2 Except as provided in Section 5.7.3 below, calculation of vacation leave taken by RSS is subject to the “12-day rule”, as follows:

- (i) when vacation leave taken (which may be intervened by other types of leave) is 12 days or less, it may be taken in half-day units (which is the smallest unit of vacation leave that may be taken at any one time) and will be calculated on a working day basis, i.e. any intervening Sundays, gazetted general holidays and off-duty Saturday mornings/afternoons if applicable are normally not counted as leave; and

- (ii) when vacation leave taken (which may be intervened by other types of leave) is more than 12 days, it may not be taken in half-day units and will be calculated on a calendar day basis, i.e. any intervening Sundays, gazetted general holidays and off-duty Saturday mornings/afternoons if applicable are normally counted as leave.

Note:

Sundays, gazetted general holidays and off-duty Saturday mornings/afternoons are “intervening” when they fall between two days of leave (which may be of one or more types). They are not “intervening” when they fall between a day of leave and a day of duty.

5.7.3 Final leave refers to the period of absence covered by any leave granted to any RSS after he/she ceases active duty and prior to his/her leaving the service. The RSS’s final leave before leaving the service will be counted on a calendar day basis with every day counting as leave. The “12-day rule” in Section 5.7.2 above is not applicable. No vacation leave in half-day units will be granted for final leave.

5.7.4 Except for final leave, for RSS on 5.5-day week or on the alternate Saturday-off system, vacation leave taken on a Saturday morning will be counted as half-day’s leave when the leave granted is 12 days or less.

5.7.5 A Sunday or gazetted general holiday(s) occurring before the date of resumption of duty after a period of vacation leave is not counted as leave.

5.7.6 For a period of continuous absence where, more than 12 days leave (of one or more types) is involved, RSS will cease to be eligible for a “day-off” on any intervening Saturday as well as on the Saturday at the end of the period of absence for RSS on alternate Saturday-off system or 5-day week. If vacation leave during the period exceeds 12 days, one day’s vacation leave should be deducted for the Saturday(s) in question.

5.7.7 The Consultant shall calculate and record the vacation leave balance of RSS before and after each occasion when RSS take vacation leave.

5.7.8 The Consultant shall manage to ensure that the site supervision and contract management of works contracts associated with the consultancy agreement shall not be affected by any arrangement of vacation leaves to be taken by RSS.

5.8 STUDY LEAVE FOR SPECIFIED TRAINING COURSES

5.8.1 Study leave may be granted to RSS by the Consultant for attending the specified training courses as stipulated in Section 4.9 of this Handbook for which reimbursement caps on salary and fringe benefits are not adjusted provided that the relevant training courses shall be satisfactorily completed by the RSS concerned.

5.9 SICK LEAVE

5.9.1 Without any adjustment to the reimbursement caps on salary and fringe benefits, sick leave may normally be granted by the Consultant to RSS according to the following rules (subject to any provision more favourable to the RSS under the Employment Ordinance):

- (i) As a concession, sick leave not exceeding two working days may be granted without the production of a medical certificate. However, unless the Consultant is reasonably confident that the RSS concerned is genuinely sick, the Consultant has discretion to withhold the grant of sick leave not supported by medical certificate particularly where the RSS concerned applies for sick leave frequently or in a regular pattern (e.g. on more than 2 occasions per month, on particular working days in a week or on particular occasions regularly).
- (ii) Sick leave exceeding 2 working days may be granted only on receipt of a medical certificate, a hospital admission certificate, or a hospital discharge certificate issued by Hospital Authority medical officers, or a private medical practitioner's certificate. RSS shall submit the certificates to the Consultant at the earliest opportunity.
- (iii) Continuous sick leave may be granted up to a maximum of 91 days at any one time.

- (iv) For the purpose of this Handbook on the grant of sick leave, “medical practitioner” means a registered medical practitioner, a registered dentist or a registered Chinese medicine practitioner.

5.9.2 The reimbursement cap on salary for the RSS concerned remain unchanged for continuous sick leave up to a total of 91 days and the cap will be determined based on halved daily rate or another daily rate calculated in accordance with the Employment Ordinance, whichever is higher for further 91 days. Unless with the justification by the Consultant and acceptance by the managing department, the reimbursement cap on salary for the RSS concerned will be determined based on halved daily rate or another daily rate calculated in accordance with the Employment Ordinance, whichever is higher or changed to without pay for another further 91 days or a longer period determined in accordance with the Employment Ordinance after granting 182 consecutive days sick leave.

5.9.3 For the avoidance of doubt, sick leave taken by RSS means any period during which a RSS is permitted to be absent from duty on account of illness or other medical treatment or investigation without forfeiting leave of any other description. Any intervening Sundays, gazetted general holidays and any Saturday mornings/afternoons on which a RSS is not due to attend for duty¹, are counted as sick leave.

5.10 MATERNITY LEAVE

5.10.1 Without any adjustment to the reimbursement caps on salary and fringe benefits, maternity leave covering a total absence from duty of up to 14 weeks in the first instance may be granted by the Consultant to female RSS because of her pregnancy or confinement (subject to any provision more favourable to the RSS under the Employment Ordinance). The 14 weeks maternity leave may commence from and be inclusive of:

- (i) a date 4 weeks immediately before the expected date of confinement, or if the RSS chooses, a later date but not less than 2 weeks before the expected date of confinement; or

¹ Sundays, gazetted general holidays, Saturday mornings/afternoons on which the RSS is not due to attend for duty are “intervening” when they fall between two days of sick leave.

- (ii) the actual date of confinement, if confinement occurs before the date in (i) above.

Where the portion of maternity leave following and including the actual date of confinement is less than 10 weeks, the 14 weeks maternity leave should be extended to make up for the 10 weeks period. The extension should be covered by earned leave, or if not available, by unpaid leave.

5.10.2 RSS is not normally permitted to resume duty within 10 weeks from and inclusive of the actual date of confinement or before her maternity leave expires, whichever is the later. However, RSS may be permitted to resume duty after the 4th week from and inclusive of the actual date of confinement if she can produce a medical certificate stating that she is fit to do so.

5.10.3 For timely adjustment of leave and the date of resumption of duty, RSS should submit documentary evidence to the Consultant confirming the actual date of confinement within 8 weeks from and inclusive of the date of commencement of her maternity leave.

5.10.4 With an adjustment to the reimbursement cap on salary, the Consultant may grant New Recruit of RSS with less than 40 weeks' continuous service immediately before the date of her commencement of maternity leave as determined under Section 5.10.1(i) above unpaid maternity leave to cover a total of 14 weeks absence from duty (subject to any provision more favourable to the RSS under the Employment Ordinance). If the RSS has vacation leave in credit to her, she may choose to take all her vacation leave before being granted unpaid maternity leave.

5.10.5 RSS should apply to the Consultant for maternity leave not later than 3 months before the expected date of confinement. She should:

- (i) indicate in her application the date of commencement of maternity leave in accordance with Section 5.10.1(i) above; and
- (ii) produce a medical certificate issued by a Government or Hospital Authority medical officer or a private medical practitioner confirming her pregnancy and specifying the expected date of her confinement.

5.10.6 In case of a miscarriage, a RSS should be granted sick leave as recommended by a Government or Hospital Authority medical officer or a private medical practitioner.

5.11 PATERNITY LEAVE

5.11.1 Paternity leave covering a total absence from duty of up to 5 days may be granted by the Consultant to a male RSS on each occasion of childbirth to take care of the newborn and the mother of the newborn before/after confinement subject to the service requirement set out in items (i) to (iii) below (subject to any provision more favourable to the RSS under the Employment Ordinance).

- (i) Except for the case in item (ii) below, RSS will be eligible for full-pay paternity leave for that day for which reimbursement caps on salary and fringe benefits are not adjusted.
- (ii) With an adjustment to the reimbursement cap on salary, the Consultant may grant New Recruit of RSS with less than 40 weeks' continuous service immediately before the day of paternity leave unpaid paternity leave to cover up to 5 days' absence from duty. However, if he has vacation leave in credit to him, he may choose to take his vacation leave in lieu of unpaid paternity leave. On choosing to take earned leave, the RSS will have to exhaust all the earned leave before being granted unpaid paternity leave.
- (iii) For New Recruit of RSS in item (ii) above, if his service has reached 40 weeks before any paternity leave day that is taken at a later time, the remaining paternity leave day(s) taken after meeting the service requirement will be full-pay for which reimbursement caps on salary and fringe benefits are not adjusted.

5.11.2 The 5-day paternity leave may be taken in one stretch or in half-day units (which is the smallest unit of paternity leave that may be taken at any one time). RSS may choose to take such leave on any day within 4 weeks before the expected date of the delivery of the newborn child to 14 weeks beginning on the actual date of the delivery of the newborn child.

5.11.3 RSS should produce documentary evidence in support of his application to the Consultant. Subject to the production of documentary support to the satisfaction of the Consultant,

any paternity leave granted/taken may be rescinded in which case the RSS will have to apply retrospectively for earned leave or unpaid leave to cover the period of absence.

5.11.4 Paternity leave is counted on a working day basis, i.e. any intervening Sundays, gazetted general holidays and off-duty Saturday mornings/afternoons are normally not counted as paternity leave.

5.12 OUTSIDE WORK

5.12.1 RSS shall not undertake outside work of any sort unless prior written approval have been obtained from the Consultant who shall only grant approval after seeking the written consent of the managing department. With the exception set out in Section 5.12.9 below, failure to obtain such approval of the Consultant and consent of the managing department shall result in rejection of the employment of the RSS. The Consultant shall include express provisions for this purpose in the RSS employment contracts.

Principles Governing Outside Work

5.12.2 The principles governing outside work by RSS are as follows:

- (i) The managing department has prior calls at all times on the abilities, energies and attention of RSS through the Consultant;
- (ii) Outside work (whether paid or unpaid) which may impair the RSS's performance of their duties or the fairness of RSS recruitment exercises, have any actual, potential or perceived conflict of interest with their duties, or distract their attention from them shall be avoided;
- (iii) Only in the most exceptional circumstances, outside work may be permissible during the RSS's normal hours of attendance;
- (iv) If any consent is given by the managing department to the Consultant for RSS to take part in radio or television broadcasts/programmes which contain advertising or are commercially sponsored, it will be on condition that no Government nor project material is used (unless that the use of material has been approved by the managing department), that the programme is not connected in any way with their duties and that they do not take part actively in or between programmes in advertising commercial products or firms;
- (v) No RSS at professional or assistant professional rank may undertake paid outside work in their profession either by way of private practice or as paid employees, except for teaching work or where the work is clearly in public interest, and with prior written approval from the

Consultant who shall only grant approval after seeking the written consent of the managing department;

- (vi) Subject to prior written approval from the Consultant who shall only grant approval after seeking the written consent of the managing department, RSS may be allowed to deliver talks or lectures to other associations or organisations in their official capacity (no matter paid or unpaid) and they may be allowed to retain up to 100% of the honorarium offered provided that the talk is prepared and delivered outside the RSS's normal hours of attendance. If the talk is to be delivered within the RSS's normal hours of attendance, permission will normally not be given for RSS to retain more than 50% of the honorarium. The remaining sum should be forwarded to the Government.

Paid Outside Work out of Working Hours

5.12.3 RSS shall obtain prior written approval from the Consultant, who shall only grant approval after seeking the written consent of the managing department, before they:

- (i) engage on their own account in outside work for remuneration of any sort; or
- (ii) accept paid employment of any sort, outside of the RSS's normal hours of attendance.

5.12.4 In considering applications from the Consultant, the managing department will take into account:

- (i) the timing, frequency and duration of the outside work and its possible effect on the RSS's efficiency;
- (ii) whether the remuneration involved is so considerable in relation to the RSS's salary as possibly to result in some loss of interest in their appointments as RSS;
- (iii) whether the outside work proposed may have any actual, potential or perceived conflict of interest with RSS's duties;
- (iv) whether the arrangement proposed might be a source of embarrassment to the Government;

(v) whether the outside work is in line with the principles given in Section 5.12.2 above.

5.12.5 The managing department shall retain the authority for the rejection of any applications. The managing department shall state the reasons for the rejection but the Consultant shall not disclose the reasons to any person unless with prior written consent of the managing department is obtained.

5.12.6 Any consent from the managing department to the Consultant on any applications for outside work may be withdrawn at any time should it appear to the managing department that the outside work has been found to conflict with the principles given in Section 5.12.2 above.

5.12.7 The Consultant shall in any case review all such arrangements every six months, and satisfy itself that the RSS's performance is not suffering by reason of such outside work. In case the RSS's performance is impaired by the outside work, the Consultant shall notify the managing department before withdrawal of its approval on the outside work.

Outside Work during Working Hours (Paid or Unpaid)

5.12.8 RSS shall not undertake outside work of any sort during the RSS's normal hours of attendance unless prior written approval have been obtained from the Consultant who shall only grant approval after seeking the written consent of the managing department. RSS should state in their applications the amount of remuneration payable. The managing department may give consent after considering the effect such work might have on the RSS's performance and being satisfied that the outside work is clearly in the public interest. RSS will not normally be allowed to retain more than 50% of the remuneration, and in some cases a lower percentage may be considered more appropriate. Outside work in connection with a recognized staff association or trade union will normally be permitted during the RSS's normal hours of attendance provided that it does not interfere with the efficient discharge of the RSS's duties.

Unpaid Outside Work out of Working Hours

5.12.9 The Consultant may allow its RSS, without consent from the managing department, to undertake outside work, out of normal hours of attendance of the RSS concerned, provided that RSS do not receive any remuneration in cash or in any kind and further provided that there is no actual or potential conflict with the principles laid down in Section 5.12.2 above. It is the responsibility of RSS before entering upon any such undertaking to consider conscientiously whether such conflict exists or may exist. If RSS think there is or may be any such conflict, they shall not undertake such outside work unless prior written approval has been obtained from the Consultant who shall only grant approval after seeking the written consent of the managing department.

5.12.10 For the avoidance of doubt, any provision of advice or assistance to the Consultant by RSS in the preparation of submissions for expression of interests or technical and fee proposals for bidding new AACSB/EACSB consultancy agreements might be a source of embarrassment to the Government. Also, this might cause allegation of impairment on the fairness of RSS recruitment exercises.

Work for Other Government Consultancies

5.12.11 For the purpose of this Handbook, the work for other consultancy agreements procured by the Government is also considered as “outside work”.

Failure to Comply with the Handbook on Outside Work

5.12.12 Disciplinary action(s), which include but not limited to, verbal warning or written warning (by the Consultant) or rejection of RSS employment by the managing department, shall be taken against any RSS who undertake outside work without prior written approval from the Consultant and the written consent of the managing department. For the avoidance of doubt, different disciplinary action(s) may be taken separately or together.

5.12.13 Failure to exercise proper judgment as to whether permission under Section 5.12.9 above should be sought or not may also render RSS liable to disciplinary action(s).

6.0 MANAGEMENT OF RSS

6.1 BUILDING UP A PARTNERING CULTURE

6.1.1 The Government has been promoting “collaborative partnership” in the implementation of public works projects, including the adoption of the NEC form to enhance management efficiency and cost effectiveness, thereby introducing a new project management culture in the construction industry. The managing department, the Consultant, RSS and works contractors shall work together to build up a partnering team for the project. For further details, please refer to the Practice Notes for the NEC form promulgated by this Branch.

6.1.2 Good communication is the key to build up trust and teamwork in public works projects. To facilitate the communication and enhance the effective use of office resources, the approach of joint site office for RSS and works contractor within the same accommodation shall be adopted for each works contract unless prior written consent has been obtained from the managing department.

6.1.3 The Consultant shall assist the managing department to procure the provision, maintenance and servicing of joint site office(s) and associated facilities under the respective works contract(s) for site supervision and contract management purposes. Also, the Consultant shall review and propose electronic communication system and/or other smart technologies as appropriate to enhance the efficiency and effectiveness of project management.

6.2 RSS MANUAL

6.2.1 The Consultant shall recommend a strategy for site supervision and contract administration for each works contract and prepare and review RSS Manual quarterly for acceptance by the managing department, giving details on the proposed staff establishment, authorities, duties, responsibilities, working days in week, hours of duty in a week, normal hours of attendance, and contract management and works supervision procedures for the guidance of the relevant ranks of RSS. The RSS establishment, structure, working days in a week and normal hours of attendance shall be devised in a way with due regard to the requirement of supervision of works progress and site

activities at all times. The RSS Manual shall also contain the latest Quality Site Supervision Plan (QSSP) as required in the consultancy agreement. The Consultant shall implement the strategy in the latest RSS Manual accepted by the managing department and manage RSS to ensure effective site supervision and contract administration for each works contract for achieving relevant safety, quality, environmental and cost management objectives and targets and fulfilling relevant statutory and contract requirements. The Consultant shall also monitor and keep records of RSS's performance, conflict of interest, outside work and other relevant aspects as appropriate.

6.3 RSS PERFORMANCE APPRAISAL

6.3.1 The Consultant shall establish a transparent and fair RSS performance appraisal system and build in an appeal mechanism. The Consultant shall manage to complete performance report on each RSS at 12-month or less interval as well as upon completion or termination of his/her employment contract. If any RSS is less than efficient or productive for any reason (e.g. because of his/her general conduct, ability, temperament or attitude to work), the Consultant shall deal with as soon as the shortcoming is observed, without waiting for the annual performance report. The employment contracts of RSS shall include a condition that their name(s) and identity card number(s) (or passport number(s)) and their unsatisfactory/poor performance reports and poor performance records will be transferred to the Government who will input them into the RSS Database for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government. Under normal situations, the Consultant shall complete the performance report of a RSS and then submit any unsatisfactory/poor performance report within 2 months from the end of each appraisal period to the managing department for inputting into the RSS Database. The Consultant shall seek agreement from the managing department for extension of the time for input of unsatisfactory/poor performance reports in special circumstances such as unsatisfactory/poor performance reports requiring review by the RSSEC of the managing department.

6.3.2 RSS performance reports should be used to assess RSS's performance during the report period. They will form records of RSS's standard of work, integrity and conduct during their services, and provide the basis of any recommendation for the grant of annual increment and/or end-of-contract gratuity, or extension or renewal of their employment contracts where appropriate. The sample key elements of RSS performance report are highlighted in **Appendix 6.1**. In particular, the

Consultant shall ensure that the overall performance grades of all RSS performance reports should strictly follow the requirements in **Appendix 6.1**.

6.3.3 The reporting officer should normally be at least one substantive rank higher than the RSS being reported upon. The reporting officer should report only on those aspects of performance on which he/she can make an honest, objective and comprehensive assessment, and where this is not possible he/she should not hesitate to say so. When the reporting officer has had only a short period of time (say less than 6 months), in which to assess the RSS on whom he/she is reporting, he/she should consult the previous reporting officer or another suitable officer or the Consultant wherever possible and indicate that he/she has done so.

6.3.4 The countersigning officer should normally be at least two substantive ranks higher than the RSS being reported on. The countersigning officer should try to supplement the assessment made by the reporting officer. If he/she disagrees with any of the reporting officer's assessments, he/she should add his own assessment and initial the addition.

6.3.5 The reporting officer or the countersigning officer should conduct an appraisal interview to provide feedback on the appraisee's performance and potential and to help the appraisee to overcome any weakness in performance if appropriate. The RSS performance report should be shown to the appraisee during the interview. A summary of the discussion in the interview should be recorded in the report. Both the interviewing officer and the appraisee are required to sign on the record of the appraisal interview. In exceptional circumstances, if no appraisal interview is conducted, the reporting officer or the countersigning officer should state the reasons in the report.

6.3.6 The Consultant should establish a committee to examine the appraisals on the RSS's performance and the standards applied by various appraising and countersigning officers in order to give a fair assessment before submission to the managing department and ensure the appraisals are duly completed with relevant justifications and supporting information. The committee should also be responsible for any appeal for RSS performance reports and its decision shall be final. The members of the committee should preferably be at a higher rank than the appraising and countersigning officers of the appraisees concerned. For unsatisfactory or poor performance reports, the RSSEC of the managing department shall review before submission to the RSS Database maintained by this Branch.

6.3.7 The Consultant shall take all practicable steps to ensure that RSS performance reports are accurate and fair and the assessment is based on solid evidence, in particular for unsatisfactory or poor performance records. If the Consultant is found not reflecting any unsatisfactory or poor performance record in RSS performance report for any case and/or not reporting such case to the managing department promptly, the managing department shall reflect such non-compliance in the Consultant's Performance Report. The Consultant shall comply with Sections 5.3 and 6.3.1 of this Handbook in relation to the collection, use and transfer of RSS' personal data, unsatisfactory/poor performance reports and poor performance records.

6.4 RSS DATABASE AND PERFORMANCE RECORDS

6.4.1 Since 2013, a RSS Database has been set up for the poor performance records of RSS provided by consultants via the managing departments. Each managing department has designated a Departmental Liaison Officer (DLO), at senior professional rank or above, for liaison with this Branch. The Consultant shall notify the managing department in writing upon termination of RSS employment contracts on the basis of poor performance as soon as possible.

6.4.2 The information on the poor performance records kept in the original RSS Database include but are not limited to the following:

- (i) Name of the RSS in English and Chinese;
- (ii) First four digits of identity card number (or passport number in case the RSS has no identity card);
- (iii) Post title of the RSS under the concerned consultancy agreement;
- (iv) Consultancy agreement number and title, consultant and managing department;
- (v) Original commencement and end dates of RSS employment contract;
- (vi) Date of termination of RSS employment contract; and
- (vii) Poor performance records of the RSS under his/her employment contract that has been terminated by the Consultant on the basis of poor performance. The managing department will not edit or add comments to the performance records provided by the Consultant but will convert the documents by scanning them into electronic copies to facilitate transfer of information. The RSSEC of the managing department shall review and specify the suspension period (which is the period within which Government departments would consider the concerned record under Section 5.5.2 (v) above) before submission of the record to the RSS Database maintained by this Branch. Afterwards, the Consultant shall inform the concerned RSS of the suspension period accordingly. For avoidance of doubt, notwithstanding the above suspension period, the managing department shall reserve the right to consider any

misconduct, incompetence, negligence and conviction record of any RSS under Section 5.5.2 (iii) and (iv) above.

6.4.3 The RSS Database has been revamped to integrate with the CNPIS which can be accessed through the Departmental Portal to keep the personal profiles, employment history, housing benefits records, unsatisfactory/poor performance reports and poor performance records of all RSS. A user manual and a training manual can be downloaded from the webpage of the system. The Consultant shall submit RSS' name and identity card number (or passport number), unsatisfactory/poor performance reports, poor performance records, housing benefits records, etc. direct to the CNPIS through registered email accounts. The submitted information will then be subject to confirmation by the managing departments. To effect the two-tier checking/confirmation of the data input, the users will be divided into two different groups (including (i) Project Engineers / Project Managers / Quantity Surveyors (PEs / PMs / Qs) who are normally at a rank of professional in the managing departments and (ii) Reporting Officers (ROs) who are normally at a rank of senior professional in the managing departments). In general, PEs / PMs / Qs are to review the RSS information in the CNPIS while ROs are to endorse the RSS information in the CNPIS. The departmental system administrators are assigned with the right to update and amend the user list of their departments in the CNPIS. The Consultant and any RSS it employs shall read the relevant sections of this Handbook and the "Personal Information Collection Statement" in the forms specified for submission of the RSS information. The Consultant shall comply with the Personal Data (Privacy) Ordinance (Cap. 486) in its collection and use of the personal data of RSS, and the transfer of such data to the Government for the purposes of recruitment, employment and management of RSS under consultancies managed by the Government.

6.4.4 With effect from 1 March 2023, the managing departments can retrieve the unsatisfactory/poor performance reports and poor performance records of RSS in the immediate past three years from the RSS Database via the CNPIS. Any unsatisfactory/poor performance reports and/or poor performance records of RSS in the immediate past three years counting from and including the date of application deadline of RSS recruitment will be considered in the RSS recruitment exercises. After the completion of RSS recruitment exercises, all reports and records of RSS retrieved from the RSS Database shall be destroyed within three months after obtaining consent for RSS employment according to Section 5.1.9. The Consultant shall obtain the consent of the applicants for RSS vacancies for the collection of their name(s) and identity card number(s) (or

passport number(s)), and the transfer of such personal data to the Government, for the purpose of retrieval of any of their unsatisfactory/poor performance reports and poor performance records from the RSS Database. If any applicant does not allow the Consultant to obtain their unsatisfactory/poor performance reports and poor performance records, the applicant should not be considered further for employment.

6.4.5 The unsatisfactory/poor performance reports and poor performance records stored in the RSS Database should be classified as “restricted” information and controlled in accordance with the Security Regulations. The information should normally be used for the purpose of RSS recruitment exercises and vetting of the Consultant’s proposals for RSS employment. After the completion of RSS recruitment exercises, all reports and records of RSS retrieved from the RSS Database shall be destroyed within three months after obtaining consent for RSS employment according to Section 5.1.9.

6.5 TRAINING

6.5.1 The Consultant shall make arrangements and provide the specified training courses under Section 4.9 to appropriate RSS.

6.5.2 If any RSS does not meet the basic safety training requirement as listed in Table 1 of **Appendix 4.8**, the Consultant shall make arrangement within two weeks from the date of employment of such RSS for him/her to attend and complete the appropriate course(s) within 3 months from the date of his/her employment. If any RSS is required to supervise works involving special risks and does not meet the requirement on safety training for works involving special risks as listed in Table 2 of **Appendix 4.8**, the Consultant shall make arrangements for him/her to attend and complete the appropriate course(s) within 1 month from the date of his/her employment unless otherwise accepted by the managing department. Should any RSS fail to complete the required safety training within the period specified above, the Consultant shall provide suitable replacement upon the expiry of the specified period.

6.5.3 Taking into account the nature, scope and complexity of the project, the Consultant shall also arrange other safety training courses, including but not limited to first-aid and fire prevention, to appropriate RSS.

6.5.4 The Consultant shall submit the safety training record in the sample format in Table 3 of **Appendix 4.8** to the managing department on a quarter basis unless otherwise accepted by the managing department.

6.5.5 The Consultant shall provide induction trainings to newly recruited RSS. The Consultant shall also co-ordinate with the managing department and the ICAC to arrange integrity training workshops for RSS and works contracts in accordance with the “Guidelines for Integrity Training Workshops for Site Supervisory Staff Engaged by Consultants/Contractors and Government In-house Site Supervisory Staff for Public Works Projects and Operation and Maintenance Contracts” in **Appendix 6.2**.

6.6 ACCOMMODATION AND TRANSPORT FOR INSPECTION OUTSIDE HONG KONG

6.6.1 If RSS's inspection outside Hong Kong is anticipated to be required for any works contract associated with the consultancy agreement, the Consultant shall prepare and submit the proposed specification on the acceptable standards of overnight accommodation and transport for inspection visits outside Hong Kong to be incorporated in the contract documents of the concerned works contract for acceptance by the managing department. The RSSEC shall also be consulted for the proposed specification before the commencement of tendering exercise for such works contract. The Consultant shall ensure to avoid luxurious arrangements and check the compliance of the specification during the construction phase.

6.7 BEST SUPERVISORY TEAM OF THE YEAR AWARDS

6.7.1 The "Best Supervisory Team of the Year Awards" will be introduced to recognise excellence and best practice in site supervision, contract management and collaboration partnership during the delivery of public works projects. Co-ordinating with this Branch, the works departments will act as the convenor for organisation of the competition for these annual awards in a rotational basis. The Consultant shall encourage its RSS team to participate in the competition to be held on an annual basis if appropriate.

7.0 STANDARD PROVISIONS IN CONSULTANCY AGREEMENTS

7.1 NEW CONSULTANCY AGREEMENTS

7.1.1 For any new consultancy agreement, the standard provisions of consultancy agreements in NEC3 PSC, NEC4 PSC and GCE forms are attached as **Appendixes 7.1 to 7.3A** of this Handbook. If any managing department wishes to make any amendments to these documents, they shall submit their proposed amendments with justifications to seek legal advice from LAD(W) and approval from this Branch.

7.1.2 A specimen of other contract provisions, including the Schedule of Resident Site Staff Standards and Duties, is attached as **Appendix 7.4** of this Handbook. Approval shall be obtained from an officer of D2 rank or above of the managing department for any such proposed document.

7.2 EXISTING CONSULTANCY AGREEMENTS

7.2.1 For any existing consultancy agreement using the old version of the contract provisions attached to DEVB TC(W) No. 4/2008 or earlier technical circular, the managing department shall execute supplementary agreements with the Consultant to facilitate the implementation of the new measures on the consultancy agreement with prospective effect.

