



MEMO

From Secretary for Development
Ref (02CQR-01-1) in DEVB(PS) 106/15/3
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Date 9 August 2011

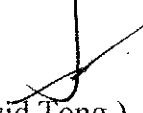
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**Technical Circular (Works) No. 4/2008
 Direct Employment of Resident Site Staff by Consultants
 Guidance Notes on RSS employed in Entrusted Public Works Project and
 taking up Lower Rank Jobs**

This serves to confirm that the following Guidance Notes in respect of employment of Resident Site Staff (RSS) by consultants are implemented on a trial basis for one year with immediate effect :

- (a) RSS employed in entrusted public works projects (**Annex A**); and
- (b) RSS taking up lower rank jobs (**Annex B**).

2. We shall conduct a review in end 2012 to assess the effectiveness of the arrangements, in particular, its impact on the supply and demand of RSS. Please bring this memo to the attention of project officers responsible for managing consultancies and consultants on projects under the purview of your department. Should you require further information, please contact Mr. Raymond KAN, AS(WP)11, at 2848 2843.


 (David Tong)
 for Secretary for Development

Encl.

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Guidance Note on determining Break Period and Reimbursement Caps for Resident Site Staff employed in Entrusted Public Works Projects

Scope

This Guidance Note sets out the principle in determining the “break period” and reimbursement caps on salaries and fringe benefits of site supervisory staff who have left the Resident Site Staff (RSS) service to work on entrusted public works projects under the Public Works Programme¹ in the form of direct employment² and subsequently re-join the RSS service.

2. The Guidance Note shall apply to consultancy agreements under the jurisdiction of the Architectural and Associated Consultants Selection Board (AACSB) and the Engineering and Associated Consultants Selection Board (EACSB), under which the Consultants are required to directly employ RSS to perform resident site staff work.

Effective Date

3. The Guidance Note is implemented on a trial basis for a period of twelve months with immediate effect.

Background

4. Technical circular DEVB TC(W) No. 4/2008 promulgates the RSS policy for public works projects covering consultancy agreements under the jurisdiction of the AACSB/EACSB. According to Appendix B of the Circular and DEVB’s memo ref. (01TL9-01-6) in DEVB(PS) 106/15/3 dated 12.8.2008, if a “Type A” or serving³ RSS is to maintain his/her status, any break in service should not exceed a consecutive period of twelve calendar months (“break period”). Currently, in determining the break period, only AACSB or EACSB consultancy agreements will be considered. Entrusted projects such as the Express Rail Link project (XRL), though under the Public Works Programme, are not accepted for the purpose of determining the break period.

5. The current policy has, in a way, limited the job opportunities for the RSS. There is a need to review the policy with a view to creating more job opportunities

¹ The definition of public works projects under the Public Works Programme is given in paragraph 2 of the Financial Circular No. 11/2004. The entrusted public works projects include projects funded under CWRP (Head 703 to 707 and 709 to 711) entrusted to and undertaken by private developers.

² “Direct employment” means the employment made under an employment contract between the Employer to whom the public works project is entrusted (e.g. the Mass Transit Railway Corporation Limited MTRCL in the case of XRL) and the ex-RSS for site supervision work of the entrusted public works project (e.g. the XRL)

³ “Serving” Resident Site Staff means those who are serving as Resident Site Staff or those who change employment without a break in service exceeding a consecutive period of twelve calendar months immediately before recruitment by the Consultants.

Annex A

for the site supervisory staff. On the other hand, as the remuneration systems of those organizations to which public works projects are entrusted vary and may differ significantly from Government's RSS reimbursement system, it is impractical to simply extend the latter to cover all entrusted public works projects. To strike a balance, a special arrangement will be implemented to determine the "break period" of RSS on a trial basis.

Special Arrangement

Break Period

6. Under the special arrangement, RSS who have left the service to work on entrusted public works projects under the Public Works Programme and subsequently re-join the RSS service are allowed to keep the reimbursement caps of salary and benefits at the time when they left the RSS service. In other words, the period of their service on these entrusted public works projects, irrespective of whether it has exceeded twelve consecutive months, will not be considered in determining the "break period".

Reimbursement Caps

7. As it is difficult to compare the duties, responsibilities and remuneration packages offered by employers of entrusted public works projects to these site supervisory staff with Government's RSS system, therefore, their experience, salaries and fringe benefits they gained in these projects will not be considered in determining the reimbursement caps when they re-join the RSS service.

Application

8. The special arrangement is only applicable to entrusted public works projects under the Public Works Programme and is not applicable to all other public works projects not under the jurisdiction of AACSB/EACSB. For completed direct employments or completed entrusted public works projects, it shall have no retrospective effect.

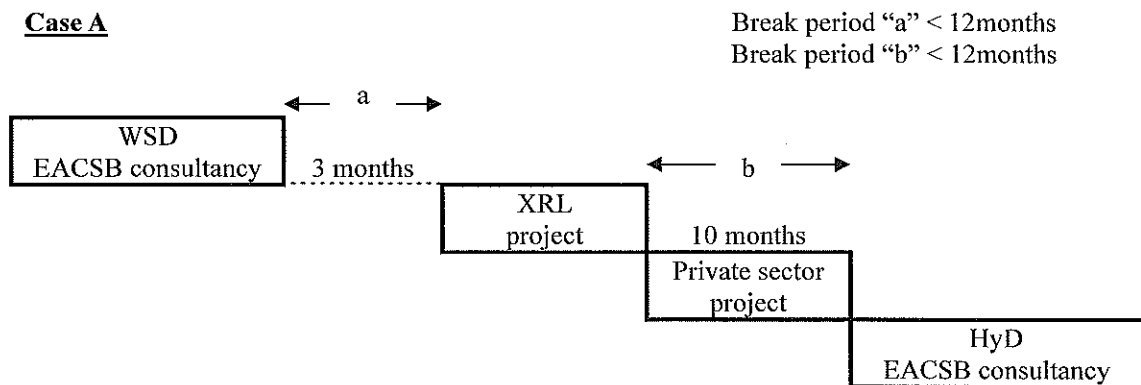
Examples

9. Case A – Break period not exceeding twelve consecutive months :
- (a) A "resident engineer", entitled to reimbursement caps of "Type A" RSS at MPS 44, completed her RSS service under a WSD EACSB consultancy and took a career break for 3 months.
 - (b) She was then directly employed by the Mass Transit Railway Corporation Limited (MTRCL) as "senior construction engineer" for XRL site supervision for 2 years.

Annex A

- (c) She subsequently worked on a private sector project for another 10 months.
- (d) After that she re-joined the RSS services under a HyD EACSB consultancy. As only (a) and (c) above were taken into consideration in determining the break period and the result was in compliance with the twelve-consecutive-calendar month rule, she was entitled to retain her reimbursement caps of “Type A” RSS status at MPS 44.

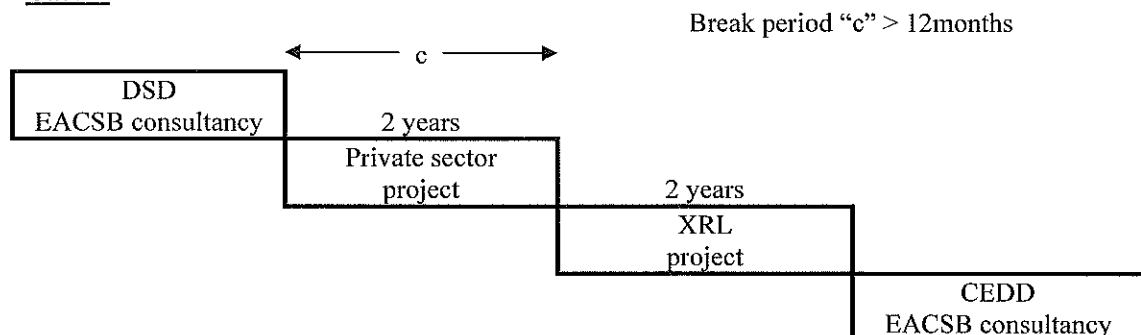
Case A



10. Case B – Break period exceeding twelve consecutive months :

- (a) A “senior inspector of works”, “Type A” RSS at MPS 37, left the RSS service under a DSD EACSB consultancy and worked for a contractor for 2 years on a private sector project.
- (b) He was then directly employed by MTRCL as “senior inspector of works” for XRL site supervision for 2 years.
- (c) He was subsequently employed as a “senior inspector of works” under a CEDD EACSB consultancy. As (a) above had exceeded twelve consecutive calendar month, he was not entitled to retain his reimbursement caps of “Type A” RSS status at MPS 37.

Case B



Implementation

11. For existing consultancies adopting the Special Conditions of Employment and Schedule of Fees clauses attached to DEVB TC(W) No. 4/2008, modification of the agreements is not required as provisions have already been made in the document for the Director's Representative to adjust various reimbursement caps.

12. A review will be conducted in end 2012 to assess the effectiveness of the arrangements, in particular, its impact on the supply and demand of RSS.

**Development Bureau
August 2011**

**Guidance Note on Reimbursement Caps of Resident Site Staff
taking up Lower Rank Jobs**

Scope

This Guidance Note sets out the principle in determining the reimbursement caps on salaries and fringe benefits of Resident Site Staff (RSS) who have taken up a job lower in rank than his/her entitled rank.

2. The Guidance Note shall apply to consultancy agreements under the jurisdiction of the Architectural and Associated Consultants Selection Board (AACSB) and the Engineering and Associated Consultants Selection Board (EACSB), under which the Consultants are required to directly employ RSS to perform resident site staff work.

Effective Date

3. The Guidance Note is implemented on a trial basis for a period of twelve months with immediate effect.

Background

4. Technical circular DEVB TC(W) No. 4/2008 promulgates the RSS policy for public works projects covering consultancy agreements under the jurisdiction of the AACSB/EACSB. According to the Circular, the RSS size, composition and the period over which each post is required are determined by the managing department in consultation with the Consultants, usually before the commencement of the respective works contracts. During the course of the works, the managing department may, in consultation with the Consultants, review and amend these to suit circumstances which subsequently prevail.

5. As construction works get closer to completion and the workload declines, the demand for RSS services will change. It is, therefore, not uncommon to find that some RSS posts may be dropped off towards the end of the works. Under such circumstances, RSS experiencing difficulties in finding a new job may choose to take up a job lower in rank than his/her entitled rank. According to the prevailing practice, if these RSS are subsequently employed in other public works projects, they will normally be remunerated at the entry pay level of their entitled rank, they cannot retain the reimbursement caps of their former posts. To address the issue, a special arrangement will be implemented.

Special Arrangement

6. Under the special arrangement, a serving RSS¹ who has undertaken a job

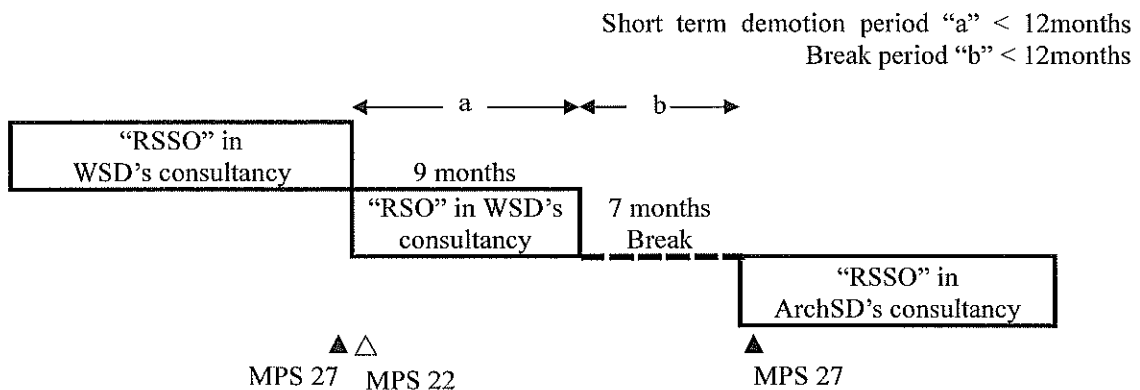
¹ "Serving" Resident Site Staff means those who are serving as Resident Site Staff or those who change employment

Annex B

lower in rank than his/her entitled rank and subsequently re-appointed to his/her former post under a new or existing consultancy agreement is allowed to keep the reimbursement caps of salary and benefits of his/her former post, if the period of service in the lower rank does not exceed 12 months.

Example

7. A "RSSO", entitled to reimbursement caps of "Type A" RSS at MPS 27, completed her RSS service under a WSD EACSB consultancy and continued to work on the same project for 9 months under a new employment as "RSO" with reimbursement caps of "Type A" RSS at MPS 22. She then took a career break for 7 months. After that, she was employed as a "RSSO" under an ArchSD AACSB consultancy agreement. As neither the duration of her "RSO" service nor the break period has exceeded 12 months, she was entitled to retain her reimbursement caps of "Type A" RSS status at MPS 27.



Implementation

8. For existing consultancies adopting the Special Conditions of Employment and Schedule of Fees clauses attached to DEVB TC(W) No. 4/2008, modification of the agreements is not required as provisions have already been made in the document for the Director's Representative to adjust various reimbursement caps.

9. A review will be conducted in end 2012 to assess the effectiveness of the arrangements, in particular, its impact on the supply and demand of RSS.

Development Bureau
August 2011

without a break in service exceeding a consecutive period of twelve calendar months immediately before recruitment by the Consultants.