

立法會
Legislative Council

LC Paper No. CB(1) 350/04-05(07)

Ref : CB1/PL/HG

Panel on Housing

Procurement of cleansing services for public rental housing estates

Background brief

Purpose

This paper sets out the concerns of members on the procurement of cleansing services for public rental housing (PRH) estates.

Outsourcing of estate management and cleansing services

2. Prior to 2000, estate management and maintenance (EMM) services, including cleansing services, of PRH were undertaken by cleansing staff engaged directly by the Housing Department (HD) or its Property Management Agents. On 27 January 2000, the Housing Authority endorsed the transfer of a comprehensive range of EMM services, for no less than 75,000 existing PRH units and all new production, to the private sector over a two-year initial phased transfer programme to Property Services Companies (PSCs). The objective was to provide residents with a greater choice and an increasing voice in the care and management of their estates. This gradual transfer of EMM services was conducted alongside an attractive release package for HD staff to encourage them to join the private sector within an option period of three years. This arrangement also allowed sufficient flexibility for private contractors to provide quality services cost-effectively. The service contracts for the first batch of 79 000 public housing units and 66 000 new ones were awarded to PSCs in October 2000. By the end of 2002/03, 40 EMM contracts have been awarded, covering 322 000 PRH units.

3. In January 2004, Oxfam Hong Kong published the results of its survey on the wages of the cleansing workers employed by the cleansing contractors of outsourced estates. The results revealed that 65% of these cleansing workers received wages lower than those pledged by the cleansing contractors in the service contracts, and some contractors had used various means to exploit

workers and evade monitoring by the HD. The matter was followed up by the Panel on Housing (the Panel) at its meeting on 15 January 2004. The Administration reiterated its commitment to ensure that workers were fully aware of the committed levels of their wages and that they were duly paid in accordance with the contractual obligations. The Administration had also caused an investigation into the situation. In responding to a Council question on 10 March 2004, the Secretary for Housing, Planning and Lands stressed that to further protect the interests of cleansing workers, the HD would require all cleansing contractors of outsourced estates to use standard form contracts formulated by the Labour Department and specify the committed wages, working hours and overtime pay in the employment contracts. Vigilant enforcement actions would be taken against under-payment and exploitation of workers.

Enhancement of measures on procurement of cleansing services to protect workers

4. On 7 June 2004, the Administration reported to the Panel the findings of its investigations in the cleansing contracts of all PRH estates. It was found that 143 cases had paid wages lower than the committed wages. These cases involved a dozen of contractors working for 27 PRH estates. The HD issued warning letters to these contractors and deducted payment to the PCSs who had been found to have shortfalls of payment to their workers. In addressing the problems concerning procurement of cleansing services, namely unreasonably low wages, unacceptable long working hours and few or even no rest days, the Administration implemented a number of measures for new tenders procuring cleansing services. The major measures are as follows:

- (a) To adopt the new mandatory requirement on wages of unskilled workers as stated in the Financial Circular No 5/2004 issued by the Financial Services and the Treasury Bureau on 6 May 2004. A tender offer shall not be considered if the monthly wages offered by the tenderers to the non-skilled workers to be employed by them for carrying out the contracts are less than the average monthly wage for the specific normal hour of work for the relevant industry/occupation published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics;
- (b) To devise a scoring mechanism in tender evaluation to encourage tenderers to keep the working hour of workers not more than 10 hours per day on average over a period of 10 days;

- (c) To adopt a demerit point system (DPS) to penalize contractors who do not comply with contract requirements. Tenders submitted by cleansing contractors who have six or more demerit points would not be considered; and
- (d) To adopt the use of auto-pay or cheque payment for wages payment to facilitate payroll checking.

A full list of the measures implemented by the Administration following its investigation is in **Appendix I**.

Members' concerns

5. Members of the Panel supported the implementation of the measures to protect cleansing workers. They however raised concerns on the details of some measures as set out below.

Demerit point system

6. Members considered it a criminal offence if the wages actually paid to staff were lower than the committed wages. They found the DPS too lenient to contractors because they would only be disqualified for tendering after being allotted six or more demerit points. Some members opined that the HD adopted double standards in the treatment of contractors and PRH tenants, in that PRH tenants would face immediate termination of tenancy and even prosecution if they submitted false information in relation to application for PRH, whereas contractors would not be disqualified for tendering immediately for cheating HD and exploiting workers.

7. The Administration assured members that cases with criminal elements would be referred to the Police for follow up actions. For those involving contravention of the Employment Ordinance (Cap. 57), they would be referred to the Labour Department. Members took note that the DPS would apply to all Government departments. Any contractor which has accumulated six or more demerit points would not be able to tender for any Government contracts.

Wage determination and protection

8. Members also expressed the following views on wage determination and protection –

- (a) Workers might be unwilling to report on exploitation, worrying that they might be discriminated in employment in the trade; and

- (b) Although the designations of certain occupations might be similar, the occupations called for different skills. Care should be exercised to identify the appropriate industries/occupations published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics to ensure the wages for comparison were reasonable.

9. Apart from the above concerns, a member also called on the Administration to investigate into other service contracts to ensure there were no malpractices.

10. A list of relevant papers with their hyperlinks is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
2 December 2004

Appendix I

Measures implemented by the Administration on procurement of cleansing services to protect workers

- (a) Adopt the new mandatory requirement on wages of unskilled workers as stated in Financial Circular No. 5/2004 issued by Financial Services and the Treasury Bureau (FSTB) on 6 May 2004. A tender offer shall not be considered if the monthly wages offered by the tenderers to the non-skilled workers to be employed by them for carrying out the contracts are less than the average monthly wage for the specific normal hour of work for the relevant industry/occupation published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics when tenders are invited.
- (b) Introduce a new item on "committed total man-hour input" in the tender. Tenderers are required to commit in the tender their number of man-hour allocated to the cleansing service being tendered. Low committed input resources will attract low score to discourage contractors from devoting insufficient resources to the service.
- (c) Devise a scoring mechanism in tender evaluation to encourage tenderers to keep the working hour of workers not more than 10 hours per day on average over a period of 10 days. Furthermore, the tenderer has to provide in the tender the committed maximum working hours for their cleansing workers.
- (d) The definition of "committed wages" is refined. Only those income and allowances that are guaranteed will be counted as part of the committed wages. All-or-none allowances, such as good attendance allowance, which are not paid to a worker in proportion to his/her attendance will not be counted in the committed wages.
- (e) Adopt the Demerit Point System aimed at penalizing those contractors not complying with contract requirements and with records of offence as stated in Financial Circular No. 3/2004 issued by Financial Services & the Treasury Bureau (FSTB) on 27 March 2004. Tenders submitted by cleansing contractors who have six or more demerit points would not be considered. Contractors will be allotted demerit points if the actual working hours of their cleansing workers have exceeded the committed maximum working hours or the wages paid to workers are below the committed wages.

- (f) Adopt the “batch-payment adjustment” method in the monthly payment to the contractor. The workers’ wage statements will be checked on a sampling basis. Workers will also be interviewed to verify the amount of wages actually received by them. In the event where shortfalls of payment to workers are revealed by the samples taken in a particular month, the total payment for that month to be paid to the contractor will be deducted by the same percentage of the shortfall of payment.
- (g) Standard monthly salary statements clearly showing the calculation of wages payable to the workers are required to support payment claims. Both the contractor and its workers are required to sign on the salary statement as a declaration of the validity of the statement.
- (h) The number of part-time workers are capped at no more than three-eighth of the total work force.
- (i) Contractors are required to sign employment contract with each of their workers using the Standardized Employment Contract published by the Labour Department.
- (j) Adopt the use of auto-pay or cheque payment for wages payment to facilitate payroll checking.

Source: LC Paper No. CB(1) 2028/03-04(05) provided by the Administration

Procurement of cleansing services for public rental housing estates

List of relevant papers

Council/Committee	Date of meeting	Paper
Panel on Housing	15 January 2004	Minutes (http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg040115.pdf)
Council meeting	10 March 2004	Hansard (http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0310ti-translate-e.pdf)
Panel on Housing	7 June 2004	LC Paper No. CB(1)2028/03-04(05) (http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg0607cb1-2028-5e.pdf) Minutes (http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg040607.pdf)
Council meeting	3 November 2004	The Administration's press release on question raised by Hon WONG Kwok-hing at the Council meeting on 3 November 2004 (http://www.info.gov.hk/gia/general/200411/03/1103236.htm)