

For information  
on 2 December 2004

## **LegCo Panel on Manpower**

### **Mandatory requirement on wage rates for non-skilled workers engaged in services contracted out by the Government**

#### **Purpose**

This paper briefs members on the mandatory requirement on the wage level for non-skilled workers engaged in services (excluding construction services) contracted out by the Government, as well as the requirement on the number of daily working hours for such contracts.

#### **Mandatory requirement for service contracts**

2. To ensure that **wage rates** offered by government contractors of service contracts (excluding construction services) that rely heavily on the deployment of non-skilled workers are not lower than the wages of the average market level of the same industry and occupation, the Government promulgated on 6 May 2004 a new mandatory requirement for tender assessment for these kinds of contracts. Under this mandatory requirement, a tender offer shall not be considered if the monthly wages for the non-skilled workers employed to carry out the contract, as well as the equivalent wage rates offered by the tenderer for such purpose, are less than the level of the average monthly wages (which relate to an average number of normal hours of work per day and average number of standard working days per month) for the relevant industry/occupation as set out in the latest Quarterly Report of Wage and Payroll Statistics (the Quarterly Report) published by the Census and Statistics Department (C&SD) at the time when the tender is invited. If the number of hours or days of work of a job is different from the average number of normal hours of work per day and the average number of standard working days per month as set out in the Quarterly Report, wages offered should also be adjusted proportionally. This mandatory requirement applies also to sub-contracting arrangements, procurement of the same kind of

government services under direct purchase authority, and contract variations.

3. According to the latest Quarterly Report at the time when tender for a contract is invited, controlling officers of the procuring departments are required to specify in the tender documents the wage rate adopted, and that the wage rate offered by the tenderer is binding. The controlling officer should also specify in the tender document that the successful contractor is required to sign written employment contracts with its employees (except temporary leave reliefs), specifying the major terms of employment inclusive of wages, working hours and rest days.

### **Calculation of the wage rates in the Quarterly Report**

4. C&SD conducts the Labour Earnings Survey quarterly to compile the average salaries statistics of individual occupations under different industries. In the survey, the relevant salaries information of individual occupations are collected from sampled establishments and statistics compiled are published in the Quarterly Report. The methodology and definition adopted in the survey are in accordance with the resolution concerning statistics of hours of work endorsed at the 10<sup>th</sup> International Conference of Labour Statisticians of the International Labour Organization in October 1962.

5. As the numbers of working days and working hours are not uniform among establishments, C&SD also needs to collect from these establishments the standard number of working days per month and the normal number of working hours per day for individual occupations. Based on these additional data, the department compiles the average standard working days per month and the average normal working hours per day for each occupation. As regards the definition of the normal working hours per day as set out in the Quarterly Report, meal breaks have not been included since the survey was first carried out in 1982. This point is clearly spelt out in the Quarterly Report as well as other relevant documents.

6. The Labour Earnings Survey includes a sample of 2000 establishments randomly selected using statistical method. The salaries statistics compiled are sufficient to reflect the actual situation of the relevant occupations. As the wage rates as set out in the Quarterly Report is an objective account of the average wage rates of the relevant

industry/occupation in the market, the Government has adopted them as the benchmarks for the mandatory wages for service contracts.

### **Meal time arrangements**

7. Meal break arrangements for employees and whether such periods should be paid are part of the employment terms to be negotiated directly between employers and employees, taking into account the nature of work and the actual operational needs. Employers and employees should agree on the relevant arrangement when entering into an employment contract.

8. To remind employers and employees of the importance of rest breaks and to encourage them to work out through consultation rest break arrangements suitable for the employees as well as meeting the operational needs of the business, the Labour Department (LD) issued the “Guide on Rest Breaks” in July 2003. Employers and employees are encouraged to make appropriate rest break arrangement, taking into account operational needs, through consultation. The Guide was prepared by the Committee on Occupational Safety and Health under the Labour Advisory Board (LAB). Members of the Committee include employers’ and employees’ representatives as well as occupational safety professionals. Before its publication, the Guide was reviewed by LAB with extensive consultation with groups and organizations including industry-based tripartite committees and the Occupational Safety and Health Council. The LD has widely publicized the Guide through various channels and promotional activities and will continue to step up its effort in this respect.

### **Food and Environmental Hygiene Department’s (FEHD) cleansing contract for Cheung Chau**

9. FEHD contracted out the street cleansing and waste collection services in Cheung Chau<sup>1</sup> in October 2004 to Champion Cleaning Transport Company Limited (Champion) for the period 1 November 2004 to 31 October 2006. The contractor is required to provide daily cleansing services from 7:00 am to 11:00 pm.

---

<sup>1</sup> Other services covered under this contract are street cleansing, waste collection, provision of toilet attendants and cleansing of aqua privies in Chi Ma Wan, Ha Keng, and Po Toi of Islands District.

10. According to the mandatory requirement set out in paragraphs 2 and 3 above, Champion, in its cleansing contract with FEHD, has agreed to pay its cleansing workers wages not lower than the average overall monthly **wage rate** of Cleaner (general) as set out in the Quarterly Report applicable at the time when tender was invited (i.e. monthly wages of \$4,898 based on eight working hours per day and 26 working days per month (the corresponding hourly rate is \$23.55<sup>2</sup>). The normal working hours per day do not include meal time and rest time). The contract also provides that the contractor may adjust the monthly wages for cleansing workers on a pro-rata basis if the hours of work vary.

11. Since cleansing workers are required to work 26 working days per month and the actual working hours of each shift is seven, Champion pays each cleansing worker a monthly wage of \$4,286<sup>3</sup> (i.e. an hourly rate of \$23.55<sup>4</sup>). This monthly wage has been set out in Champion's employment agreements with cleansing workers.

12. In November 2004, the cleansing workers alleged that Champion had deducted on a pro-rata basis the salary for the one-hour meal time per work day and demanded the full payment of \$4,898 as their monthly salary. All 51 day-shift cleansing workers failed to report for duty since 27 November 2004. To ensure public health and maintain environmental hygiene services on Cheung Chau, Champion and FEHD have deployed replacement workers to take up the duties originally carried out by the workers on strike. So far, there has been no deterioration in the environmental hygiene conditions in Cheung Chau except for the first day of the strike.

13. FEHD has investigated into the case and found no evidence to suggest that Champion has violated the terms and conditions of its service contract with FEHD. FEHD officials have been holding meetings with the representatives of the cleansing workers since 26 November 2004 to explain the relevant contractual provisions concerning the calculation of monthly wages and to understand the workers' demand. FEHD is now discussing various proposals with the contractor and will

---

<sup>2</sup> \$ 4,898 ÷ 26 days ÷ 8 hours

<sup>3</sup> \$4,898 ÷ 8 hours x 7 hours

<sup>4</sup> \$ 4,286 ÷ 26 days ÷ 7 hours

continue to work with all parties concerned to find a solution.

## **Conclusion**

14. Members are invited to note the content of this paper.

Financial Services and the Treasury Bureau  
Census and Statistics Department  
Food and Environmental Hygiene Department  
Labour Department  
December 2004