

For information
on 17 November 2005

LegCo Panel on Manpower

Implications of the World Trade Organization Agreement on Government Procurement on local employment

Purpose

This paper briefs members on the implications of the World Trade Organization Agreement on Government Procurement (GPA) on the Hong Kong Special Administrative Region (HKSAR) Government's procurement policy and local employment.

Background of GPA

2. The GPA aims at ensuring that its contracting parties conduct government procurement in accordance with the two major principles of "non-discrimination" and "transparency" so as to obtain the best value for money. The principle of "non-discrimination" includes most-favoured-nation treatment and national treatment. This means that, for procurement covered by the Agreement, a contracting party shall accord the suppliers of another contracting party treatment no less favourable than that accorded to suppliers of any other contracting parties or any local suppliers. The spirit and objectives of the GPA are fully consistent with the HKSAR Government's procurement policy. Joining the GPA in 1997 has not led to any change in our procurement policy.

3. The GPA also prescribes procedural requirements regarding non-discriminatory treatment of goods, services and suppliers, qualification of suppliers, tender procedures and tender specifications. An example of these requirements is that the technical specifications should be in terms of performance, and that reference to specific origin or supplier should be avoided. In the event of a complaint or challenge by a supplier that there has been a breach of the Agreement, such challenges should be heard by an independent review body.

4. Currently, there are 13 parties to the GPA¹, including the biggest developed economies in the world, with enormous government procurement markets. The GPA provides non-discriminatory access by Hong Kong's suppliers of goods and services to the government procurement markets of other GPA parties. It also ensures that Hong Kong's suppliers compete on an equal footing with suppliers of other GPA parties in those markets. Expanding overseas market provides local companies with more business opportunities which, in turn, encourage investments and create jobs.

5. Under the GPA, the procurements of central government entities, sub-central government entities and public entities with contract values at or above certain specified thresholds are subject to the provisions of the Agreement. The thresholds of GPA parties are set out at **Annex**. Our GPA thresholds are not lower than the norm for other GPA parties.

6. A GPA party wishing to modify its commitments, including its thresholds, will need to notify the WTO Committee on Government Procurement established by the Agreement. The Committee shall consider the proposed modifications and any claim for compensatory adjustments from other GPA parties with a view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided in the Agreement. In the event of agreement not being reached at the Committee, the consultations and dispute settlement mechanism under the GPA will be followed.

Government Procurement Policy

7. The Government procurement policy is guided by the principles of fair and open competition, transparency, public accountability and value for money. This policy is in the overall interest of Hong Kong. As pointed out in paragraph 2, joining the GPA in 1997 has not led to any change in the Government procurement policy, and has not adversely affected local employment.

¹ The 13 parties to the GPA are: Canada; European Communities (including its 25 Member States: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom); Hong Kong China; Iceland; Israel; Japan; Korea; Liechtenstein; Netherlands with respect to Aruba; Norway; Singapore; Switzerland; and United States.

HKSAR Government Procurement of Goods and Services

8. There have been suggestions of imposing a local content or local production requirement in the government procurement of services and goods, with a view to improving the local employment. Specific areas raised include the procurement of printing services and uniforms for government staff as well as the use of pre-fabricated units in housing and public works projects. Our assessment is set out below.

9. For government procurement of services, particularly those contracts which mainly rely on the deployment of workers to provide the required services at the local work sites, these are already sourced principally from local suppliers/workers by virtue of the government's policy on importation of labour. Contractors will be in breach of the law if they employ non-local workers illegally.

10. For government procurement of goods, as Hong Kong is no longer a manufacturing base for many products, most of the goods currently procured by the Government have to be sourced from outside Hong Kong. Imposing a local production requirement would have practical difficulties. Besides, the small size of government procurement demand would unlikely entice suppliers to establish production facilities in Hong Kong.

11. In addition, imposing a mandatory requirement on local content or local production will cast serious doubts on Hong Kong's long-established policy of free trade and fair competition. This would seriously undermine investors' confidence in Hong Kong and may in turn adversely affect local employment opportunities.

Printing Services

12. We have not included printing services in our GPA specific commitments. Hence, the procurement of this service by the Government is not subject to the GPA.

13. At present, printing orders under \$20,000 each may be outsourced by bureaux/departments under Direct Printing Authority. For printing orders handled by the Government Logistics Department (GLD), outsourcing will only be considered when there are equipment and skills constraints. In 2004-05, about 22% of the total value of all printing services required by the Government was outsourced. GLD outsourced about 1 200 printing orders involving HK\$33.3 million. Among them, over 50% of the orders had a value below \$5,000 each. Other

bureaux/departments also outsourced some 2 100 printing jobs involving \$17.5 million under delegated authority. Given the small value of each order and the very tight delivery schedules, we believe that most orders were carried out in Hong Kong. For this reason, even if we were to specify that all outsourced printing work must be done locally, the effect on local job creation would be minimal.

Procurement of Uniforms

14. At present, a large portion of uniform items for various government departments such as those of the Hong Kong Police Force and Correctional Services Department (CSD) are produced by inmates of CSD. For the remaining orders of the other disciplined services, uniforms are mainly procured together with tailoring services under departmental direct purchase authority (i.e. under \$1.3m per contract). Taking into account the relatively small requirements of the other disciplined services and the seasonal demand for summer and winter uniforms only, even if all government uniforms were required to be made in Hong Kong, the number of jobs to be created would be minimal. On the other hand, the costs to the taxpayer may be increased substantially.

Use of Prefabrication in Housing and Public Works Projects

15. The GPA does not impose any restriction on the use of pre-fabrication nor the place of production of pre-fabricated units. In the delivery of housing and public works projects, the use of pre-fabrication and the place of its production are solely the decision of individual contractors. Relevant considerations in the use of pre-fabrication include the lower overhead costs, higher product quality, safer and more environment-friendly production.

16. For public works contracts, it is estimated that about 6% of the total expenditure is spent on pre-fabrication and, of this, 75% is done on the Mainland. For the public housing projects, prefabricated components account for about 20% of the concrete volume in a housing block. Almost all of them are prefabricated on the Mainland, because of the availability of land and labour, resulting in a more cost effective product delivery.

17. Imposing a local production requirement on pre-fabricated units would entail practical difficulties. Specifically, most of the pre-fabricated units currently produced outside Hong Kong are difficult to produce

locally because of insufficient land space for production sites and environmental concerns.

18. Furthermore, any restriction imposed on pre-fabrication works would not be in line with the Government's overall value-for-money procurement policy. There would also be cost and quality implications as the contractors would be barred from using the best resources available in the market. We also need to be mindful of the possible impact on the overall economic efficiency and down-streaming effect to other industries.

The Way Forward

19. Joining the GPA has not led to any change in our procurement policy and has not adversely affected local employment opportunities. The Government will continue to adopt a pragmatic approach and spare no efforts in facilitating employment, taking into account various policy considerations.

20. In the case of the construction industry, which is still badly hit by unemployment though its jobless rate has fallen from the peak of 20% in August - October 2003 to the latest 11%, we will continue to invest in public works and municipal projects, expedite urban renewal and promote maintenance and management of old buildings by the private sector in a bid to create jobs. As stated in the 2005-06 Policy Address, these projects are expected to create some 6 300 jobs in the construction sector. If we were to proceed with the decision to build the new Government Headquarters and Legislative Council Building at Tamar in 2007, some 2 700 construction jobs would be created.

Commerce, Industry and Technology Bureau
Economic Development and Labour Bureau
Environment, Transport and Works Bureau
Financial Services and the Treasury Bureau
Government Logistics Department
Housing Department
Trade and Industry Department

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GPA Thresholds

For central government entities, the GPA thresholds are:

- Goods and non-construction services: Special Drawing Rights (SDR)¹ 130,000 (viz. about HK\$1.3 m) for all GPA parties.
- Construction services: SDR5m (about HK\$50m) for all except for Japan (SDR4.5m) and Israel (SDR8.5m).

For sub-central government entities², the GPA thresholds are:

- Goods and non-construction services: SDR200,000 for all, except for Israel (SDR250,000), Canada and the US (SDR355,000).
- Construction services: SDR5m for all except for Israel (SDR8.5m), Japan and Korea (SDR15m).

For other public entities³, the GPA thresholds are:

- Goods and non-construction services: SDR400,000 for all except for Japan (SDR130,000), Canada and Israel (SDR355,000) and Korea (SDR450,000).
- Construction services: SDR5m for all except for Japan (SDR 4.5m for some entities and 15m for the rest), Israel (SDR8.5m) and Korea (SDR15m).

¹ SDR is an international currency unit set up by the International Monetary Fund (IMF). For years 2004-2005, SDR 1 is equivalent to HK\$10.39019.

² Hong Kong, China; Singapore and Aruba do not have these entities

³ Applicable to five public bodies in Hong Kong, namely Airport Authority; Housing Authority and Housing Department; Hospital Authority; Kowloon-Canton Railway Corporation; and MTR Corporation Limited.