

## **ITEM FOR FINANCE COMMITTEE**

### **HEAD 95 – LEISURE AND CULTURAL SERVICES DEPARTMENT Subhead 000 Operational expenses**

Members are invited to approve a supplementary provision of \$78.488 million under Head 95 Leisure and Cultural Services Department Subhead 000 Operational expenses to meet additional expenditure for government service contracts in 2011-12 arising from the implementation of Statutory Minimum Wage.

#### **PROBLEM**

The approved provision for the operational expenses of Leisure and Cultural Services Department (LCSD) is inadequate to meet its anticipated expenditure for government service contracts in 2011-12 arising from the implementation of Statutory Minimum Wage (SMW).

#### **PROPOSAL**

2. We propose to provide a supplementary provision of \$78.488 million under Head 95 Leisure and Cultural Services Department Subhead 000 Operational expenses to meet additional expenditure for government service contracts in 2011-12 arising from the implementation of SMW.

#### **JUSTIFICATION**

##### **New Arrangements for Government Service Contracts**

3. At the meeting of the Legislative Council (LegCo) Panel on Manpower on 11 April 2011, the Administration informed Members that in tandem with the SMW implementation, the following new arrangements would be introduced for government service contracts that rely heavily on the deployment of non-skilled workers (such as cleaners and security guards) –

(a) .....

- (a) for new contracts tendered on or after 1 May 2011, contractors would be required to pay their non-skilled workers at not less than the SMW plus one paid rest day in every seven days<sup>1</sup>; and
- (b) for existing contracts straddling 1 May 2011, the Government may provide, on an exceptional and one-off basis, top-up payment to service contractors to meet the increase in wage costs of non-skilled workers, arising solely and directly from meeting the SMW requirement with effect from 1 May 2011 until the expiry of the contracts concerned.

For (a) above, procuring departments have incorporated the new wage arrangement into their tender documents so that contractors bidding contracts tendered on or after 1 May 2011 can take that into account in submitting their tendered prices. For (b) above, the implementation details are set out in the ensuing paragraphs.

### **Applications for Top-up Payment from Contractors**

4. For existing contracts straddling 1 May 2011, government service contractors may apply to procuring departments for top-up payment after their payment of monthly wages to non-skilled workers employed. Contractors are required to calculate the top-up payment down to a per-worker-per-contract basis based on the actual wage and employment profiles of workers concerned. In doing so, contractors are encouraged to use a template provided by the Administration in providing itemised breakdown of wages, statutory benefits and provident fund contributions for verification by the procuring departments.

### **Disbursement of Top-up Payment**

5. Since the implementation of the top-up arrangement, procuring departments have been monitoring through various safeguard measures to ensure that the top-up payment goes to non-skilled workers who are the target beneficiaries of the exceptional arrangement. Such measures include direct checking with concerned workers on wages received and verification of supporting documents<sup>2</sup> submitted by contractors in their top-up payment applications.

/Top-up .....

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<sup>1</sup> A transitional arrangement has also been introduced for higher-paid occupations to which the average market monthly wages published by the Census and Statistics Department in March 2011 would continue to apply until the rate of SMW plus one paid rest day in every period of seven days catches up.

<sup>2</sup> The supporting documents may include a statement on the payroll records of non-skilled workers deployed to carry out government services under contracts during the relevant month; workers' attendance records; autopay records or other documents showing the wage-related portion of the top-up payment made to the workers; and records of employers' contribution to the Mandatory Provident Fund Schemes or the Occupational Retirement Schemes.

Top-up payment would be released on a reimbursement basis after the procuring departments are satisfied that the top-up amount under application for the month has arisen solely and directly from meeting the SMW requirement and that the contractors have paid their workers according to the wages stipulated in the standard employment contracts and made provident fund contributions in accordance with statutory requirements.

6. In the case of LCSD, for example, apart from verifying contractors' applications through direct checking with concerned workers on wages received as mentioned above, the Department has also required contractors for contracts procured through tenders to arrange for a certified public accountant (practising) or a corporate practice registered under the Professional Accountants Ordinance (Cap. 50) to examine the relevant employment agreements, payrolls and other supporting documents and to certify that all information provided is correct and workers have been paid no less than the wages as specified. So far the top-up arrangements have been working smoothly and the Government has received no complaint about belated wage payment at a level as specified by the new arrangements.

### **Additional Expenditure for LCSD**

7. For LCSD, the arrangements in paragraph 3 above involve a total of over 110 government service contracts and about 9 300 non-skilled workers for 2011-12 and beyond. As a result of the implementation of SMW, the estimated expenditure of these contracts in 2011-12 would increase by about \$96 million (or 11.2%) from \$856 million to \$952 million.

### **FINANCIAL IMPLICATIONS**

8. The additional expenditure of LCSD's government service contracts as a result of implementing the arrangements in paragraph 3 above is \$96 million in 2011-12. Since LCSD has re-deployed \$17.512 million under its Subhead 000 to cover part of the additional requirement, the supplementary provision required is \$78.488 million in 2011-12.

9. The latest estimate of LCSD's Subhead 000 Operational expenses is as follows –

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	<b>\$ million</b>
Approved provision for 2011-12	5,506.518
Add:	
Estimated additional provision to be provided for 2011 pay rise	87.290
Less:	
Actual expenditure from 1 April 2011 to 30 November 2011	3,761.360
Estimated expenditure from 1 December 2011 to 31 March 2012	1,910.936
<b>Estimated shortfall</b>	<b>(78.488)</b>

10. We will include sufficient provisions in the Estimates of subsequent years to meet the additional expenditure from 2012-13 onward.

## **PUBLIC CONSULTATION**

11. On 15 December 2011, we consulted the LegCo Panel on Manpower on the proposal. Members supported the funding application. Some Members urged the Administration to closely monitor the disbursement of top-up payment to ensure that the entire amount was paid to non-skilled workers. In response to Members' question on why LCSD could not absorb the top-up payment using its own resources, the Department explained that it had made good use of its allocated resources with minimal underspending in the past. For instance, it achieved a 99.6% spending level in 2010-11. There was limited room for meeting the additional expenditure arising from the implementation of SMW.

## **BACKGROUND**

### **Top-up Arrangement - an exceptional measure**

12. It is the obligation of government service contractors, as employers, to pay their non-skilled workers up to the SMW level on or after 1 May 2011. This notwithstanding, the Administration appreciated that the implementation of the initial SMW rate was unique in that many service contractors might not be able to capture the impact of SMW in their contract prices when offering bids at the tendering stage. We were also concerned that the additional SMW requirement

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might affect the viability of existing contracts to the extent of putting the continuity of public services at risk. In the interests of ensuring continued provision of public services and protecting the employment opportunities of non-skilled workers engaged under existing contracts, the Administration decided to make special arrangements for existing contracts as mentioned in paragraph 3(b) above to authorise in principle procuring departments to provide top-up payment to service contractors to cover their wage cost increase arising solely and directly from the implementation of SMW, including the corresponding increase in provident fund contributions. For new contracts tendered on or after 1 May 2011, tenderers are expected to take into account the likely SMW impact during the contract period in making their bids. The Government would not provide top-up payment for these new contracts.

### **Additional Expenditure for the Government (including LCSD)**

13. The arrangements in paragraph 3 above will entail additional expenditure for 53 procuring departments (including LCSD) involving a total of over 700 government service contracts and about 28 600 non-skilled workers for 2011-12 and beyond. As a result, the estimated expenditure of these contracts in 2011-12 would increase by about \$279 million (or 9.87%) from \$2,827 million to \$3,106 million.

14. As the new arrangements for government service contracts in paragraph 3 above were only finalised in early 2011, procuring departments might not be able to budget for the additional expenditure in the 2011-12 Estimates. After internal redeployment of identified savings, LCSD has reduced the funding shortfall to \$78.488 million for 2011-12. The other 52 procuring departments can absorb the additional expenditure with savings identified from their approved provisions for 2011-12 and/or supplementary provisions approved under delegated authority.

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