

For discussion on
15 December 2011

Legislative Council Panel on Manpower

Supplementary Provisions Required for Top-up Payment to Government Service Contractors arising from the Implementation of Statutory Minimum Wage

Purpose

This paper informs Members of the Administration's plan to seek Finance Committee's (FC) approval to provide supplementary provision of \$78.488 million for the Leisure and Cultural Services Department (LCSD) to meet its extra government service contract expenditure in 2011-12 arising from the implementation of the statutory minimum wage (SMW).

Top-up Arrangement

2. Following the implementation of the SMW, government service contractors, being the employers, are obliged to pay their workers additional remuneration to meet the shortfall if the wages of their workers are below the SMW requirement. Whilst noting this is the contractors' liability, we appreciate that the implementation of the initial SMW is unique in that many service contractors of government service contracts relying heavily on the deployment of non-skilled workers were unable to capture the impact of SMW on their contract prices when offering bids at the tendering stage. Hence the Government has decided to make a special arrangement to authorise in principle bureaux/departments to provide top-up payments to service contractors in respect of existing service contracts to cover their wage cost increase arising solely and directly from SMW implementation in order to protect the employment of existing employees as well as to ensure the continued provision of public service.

New Arrangements for Government Service Contracts

3. At the Panel meeting 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) for new contracts tendered on or after 1 May 2011, contractors would be mandated to pay their non-skilled workers at not less than the SMW plus one paid rest day in every seven days¹; 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.

Following the implementation of these arrangements since 1 May 2011, non-skilled workers engaged under the above government service contracts have received a pay rise. Procuring departments are monitoring through existing contract management measures to ensure that the top-up payment go to the non-skilled workers who are the target beneficiaries of the exceptional arrangement. So far the arrangements have been working smoothly and the Government has not received any complaints about belated wage payment at a level as specified by the new arrangements.

4. The arrangements in paragraph 3 above will entail additional expenditure for 53 procuring departments involving a total of over 700 government service contracts and about 28 600 non-skilled workers for 2011-12 and beyond. The estimated expenditure of these contracts in 2011-12 would as a result increase by about \$279 million (or 9.87%) from \$2,827 million to \$3,106 million. While procuring departments may not have budgeted for the additional expenditure in their 2011-12 Estimates (as the arrangements were only finalised in early 2011), 52 of them can absorb the additional expenditure from savings identified from their approved provisions for 2011-12 and/or supplementary provisions approved under delegated authority. LCSD is the only department in need of supplementary provision requiring FC's approval.

¹ 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.

5. At present, the expenditure of LCSD's government service contracts is chargeable to Head 95 LCSD Subhead 000 Operational expenses. The additional expenditure incurred for LCSD's government service contracts in 2011-12 will be \$96 million and can be partly offset by internal re-deployment under LCSD. The latest estimates of LCSD's Subhead 000 Operational expenses are as follows:

	\$ million
Approved provision for 2011-12	5,506.518
Less:	
Actual expenditure from 1 April 2011 to 30 November 2011	3,761.360
Estimated expenditure from 1 December 2011 to 31 March 2012	1,928.448
Estimated shortfall	<u>183.290</u>

The estimated shortfall in Head 95 LCSD Subhead 000 Operational expenses for 2011-12 is \$183.29 million of which \$96 million² is attributable to the additional expenditure incurred to implement SMW in 2011-12. Since LCSD has re-deployed \$17.512 million under its Subhead 000 for offsetting purpose, the supplementary provision to be sought from FC is \$78.488 million.

Way Forward

6. Subject to agreement of the Panel, the Administration will seek FC's approval for a supplementary provision of \$78.488 million to enable LCSD to pay top-up payments to its government service contractors following the implementation of SMW.

Labour Department
Leisure and Cultural Services Department
December 2011

² The balance of estimated shortfall after excluding top-up payments represents the 2011 civil service pay rise and will be dealt with under the delegated authority by the Administration.