

For information on  
21 April 2015

**Legislative Council  
Panel on Manpower**

**Outsourcing of government services and protection for staff of  
public libraries service contractors**

**Purpose**

This paper briefs Members on the existing arrangements on the outsourcing of government services, the outsourcing of services in public libraries and the concerned employees' rights and protection under the Employment Ordinance (EO).

**Background**

2. In view of a recent labour dispute between a public libraries service contractor and its employees, Members requested to discuss the arrangements relating to outsourcing of government services and protection of employees of the government service contractors, in particular staff of public libraries service contractors. The relevant information is set out in the ensuing paragraphs.

**Outsourcing of government services**

3. Outsourcing is one of the tools for government departments to deliver public services. Whether outsourcing is required is at the discretion of individual departments having regard to their operational needs. If public services are outsourced, the procuring departments shall devise an effective monitoring mechanism to ensure that a contractor performs to standard and complies with the terms of a contract.

## **Hiring of services in public libraries**

4. At present, the Leisure and Cultural Services Department (LCSD) operates 67 static and 12 mobile libraries. LCSD invited the Efficiency Unit (EU) in 2006 to review the mode of delivery of frontline and support services at public libraries with a view to formulating a cost-effective manpower strategy to meet the increasing demand for library services. EU has recommended a number of improvement measures to streamline the workflow and redeploy resources. The measures entail mainly the further application of new technology to promote self-service and the hiring of services for the sorting and shelving work of all libraries. While the core frontline and support services would be performed by a permanent team of civil servants to maintain quality service standard and stable operation of the library system, EU has recommended that outcome-based contract services would be hired from the private sector to assist in sorting, shelving and processing library materials in libraries.

5. Taking EU's recommendations, LCSD has implemented a new mode of service delivery at public libraries by phases from 2011 onwards. At present, LCSD maintains a team comprising civil servants and Non-Civil-Service-Contract (NCSC) staff<sup>1</sup> for the delivery of core library services for the public. To complement the in-house workforce, LCSD also hires services for the provision of manpower to assist in support services and meet certain operational needs where additional manpower is required (e.g. short-term assignments or sudden upsurge in service needs during peak periods such as lunch hours, after-school hours, weekends and public holidays). These duties include sorting, shelving, processing of new library materials and providing technical support to the public in using IT facilities.

6. Regarding the hiring of services in public libraries, LCSD follows the relevant guidelines to select suitable contractors to supply manpower according to a pre-determined total number of man-hours/monthly rates/on project basis within the duration of a contract, and as and when additional manpower is needed. Generally speaking, the contracts concerned contain provisions to the following effect –

- (a) The contractors are required to enter into employment agreement with each of their employees which sets out the essential terms and conditions of employment, including but not limited to the employment period, rest day arrangement, wages and fringe benefits.

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<sup>1</sup> LCSD has been gradually replacing NCSC positions with long-term needs in public libraries by civil service posts.

- (b) The contractors are required to comply with the relevant ordinances of Hong Kong. LCSD is entitled to terminate the services contract forthwith on giving notice to the contractor who is not entitled to any compensation whatsoever if the contractor is convicted of any offence under the relevant ordinances.
- (c) Where the contractor has failed to perform the services in accordance with the provisions of the contracts (including under-provision of manpower and/or failure to achieve performance indicators), liquidated damages may be deducted from payments due to the contractor in order to ensure that disruption to public services be minimised.

***The recent case concerning a contractor providing manpower/shelving services to public libraries***

7. Regarding the recent incident whereby a contractor failed to perform its obligations under a few contracts for the provision of manpower/shelving services to public libraries, the default contractor remains responsible for meeting its legal obligations as an employer to pay wages to its employees. The circumstances of the incident suggest that it is an isolated incident mainly due to the financial conditions of the contractor. In connection with this incident, LCSD has taken the following action –

- (a) LCSD has put in place contingency measures to minimise disruption of library services to the public; and
- (b) LCSD will keep under review the prevailing mode of library operation in the light of experiences, latest developments and good practices, with a view to ensuring the smooth and efficient operation of library services.

8. Since the case has erupted, LCSD has been working closely with the Labour Department (LD) and provided relevant information to facilitate the handling of the claims of the affected employees including their outstanding wages and termination payments. In view of the large number of employees involved and that they are employed in different libraries, LD set up two hotlines for workers' enquiries, one each on their rights and employment assistance. LD also arranged a conciliation meeting in March 2015 during which the employees could communicate directly with the service contractor regarding their claims and requests. So far, some 420 employees have been registered for employment claims. LCSD and LD already reminded the service contractor of his obligations under the EO to clear the outstanding wages and other termination payments to employees. LD has been closely monitoring the case and will continue to follow up with

the service contractor with an aim to assisting the employees to recover the defaulted wages and other employment entitlements through all necessary legal means.

### **Protection for employees of government service contractors**

9. Like other employees in the private sector, employees of government service contractors are accorded protection and benefits under the EO on payment of wages, restriction on deduction of wages, as well as entitlement to rest days, paid statutory holidays, annual leave, sickness allowance, severance payment and long service payment, etc. subject to their meeting the relevant eligibility criteria. Under the EO, wages shall become due on the expiry of the last day of the wage period. An employer should pay wages to his employees as soon as practicable but in any case not later than seven days after the end of the wage period. Also, an employer shall, at the time of termination of employment, pay all the termination payments including outstanding wages, wages in lieu of notice, annual leave pay, severance payment/long service payment, etc. as soon as practicable. Except for severance payment, an employer shall clear all the termination payments within seven days after the date of termination.

10. An employer who wilfully and without reasonable excuse fails to pay wages and/or termination payments to an employee when it becomes due is liable to prosecution and, upon conviction, to a fine of \$350,000 and to imprisonment for three years under the EO. LD will thoroughly investigate any suspected breaches and institute prosecution against the offending employers and the responsible persons whenever there is sufficient evidence.

### **Advice sought**

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

Financial Services and the Treasury Bureau  
Labour and Welfare Bureau  
Labour Department  
Leisure and Cultural Services Department

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