

For information
on 4 November 2004

LegCo Panel on Manpower

Extension of the mandatory requirements for employment terms for non-skilled workers engaged in projects or services contracted out by the Government to public bodies

Purpose

This paper briefs Members on the latest position on the mandatory requirements for employment terms for non-skilled workers engaged in projects or services contracted out by the Government and the position on extending this arrangement to public bodies.

Mandatory Requirements for Government Service Contracts

2. On 6 May 2004, the Government promulgated a new mandatory requirement on wage rates for service contracts (excluding construction services) that rely heavily on the deployment of non-skilled workers. Under this mandatory requirement, a tender offer shall not be considered if the monthly wage rates offered by the tenderer to their non-skilled workers are less than 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 published in the latest Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics at the time when tenders are invited. The new requirement applies also to sub-contracting arrangement, procurement of the same kind of government services under direct purchase authority, and contract variations. This mandatory requirement applies to tenders invited on or after 6 May 2004.

3. Since the implementation of the mandatory requirement, government departments, including the Housing Department which administers its own tendering procedures, have awarded a total of 37 contracts invited through tender, each costing over \$1.3 million. For all these contracts awarded, the wage rates for general workers and security

guards offered by the tenderers are no less than the average monthly wages for the relevant industry/occupation as published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics at the time when tenders were invited. About 2 800 non-skilled workers are covered in these contracts. A summary of these contracts is at Annex.

4. Departments administering the services contracts have devised respective monitoring mechanisms to ensure that their contractors comply with the terms of contract relating to employment conditions. These measures may include displaying the information on wages and working hours in respect of non-skilled workers in workplaces, requiring contractors to adopt the method of autopay or issue of cheques for payment of wages, regular checking of wage and attendance records, interviewing the non-skilled workers to check their wages and their working hours, checking contractors' statement on payment of wages to the non-skilled workers and contributions under the Mandatory Provident Fund Schemes Ordinances (Cap 485) or under the Occupational Retirement Schemes Ordinance (Cap 426), and requiring the contractors to provide a copy of employment agreement etc. Where Controlling Officers have grounds to suspect that contractors or sub-contractors are in breach of the Employment Ordinance, they may pass the information to the Labour Department for investigation. Procuring departments will consider terminating the contracts if the contractors have breached the contractual obligations.

Extension of the Requirement to Public Bodies

5. As defined in Section 3, Cap 1 of the Laws of Hong Kong, public body includes the Executive Council, the Legislative Council, any District Council, any other urban, rural or municipal council, any department of the Government and any undertaking by or of the Government. It therefore includes any public corporation established through legislative proceedings and operated on commercial principles. There are currently more than 200 public bodies and public corporations, and their operations fall within the ambits of different policy bureaux. Generally speaking, public bodies, other than government departments and including public corporations, have their own terms of reference and modes of operation. Some of them are governed by law and are accountable to their boards of directors, and some operate on commercial principles. They have their own procurement policies, contract approval procedures and authority for awarding contracts. It would be up to these bodies to decide whether to

adhere to the Government's practice. However, subvented organizations are required to put in place a procurement policy which is transparent, fair and cost-effective, making references to practices in the Government.

6. Notwithstanding the above, Bureaux have already informed public bodies/public corporations under their purview in writing that the Government has since 6 May 2004 implemented a mandatory requirement on wage rates for service contracts (excluding construction services) that rely heavily on the deployment of non-skilled workers. These bodies have been encouraged to follow the Government's practice, where possible.

Economic Development and Labour Bureau
Financial Services and the Treasury Bureau
October 2004

Summary of contracts awarded through tenders invited on or after 6 May 2004

Department	Position	Offered Wages		Average Wages Published in Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics (month of issue in bracket)		No. of Contract	Estimated No. of Non-skilled Workers Involved
		<i>Monthly wages (\$)</i>	<i>Hourly wages*</i>	<i>Monthly wages (\$)</i>	<i>Hourly wages* (\$)</i>		
Food and Environmental Hygiene Department	Cleansing Worker	5,200 ⁽¹⁾	25.00	5,030 ⁽¹⁾ (Dec 03)	24.18	1	245
	Toilet Attendant	4,914 ⁽²⁾	21.00	4,355 ⁽²⁾ (Dec 03)	18.61		
	Cleansing Worker	4,898 ⁽¹⁾	23.55	4,898 ⁽¹⁾ (Mar 04)	23.55	4	440
	Toilet Attendant	4,381 ⁽²⁾	18.72	4,381 ⁽²⁾ (Mar 04)	18.72		
	Cleansing Worker	5,100 ⁽¹⁾	24.52	5,030 ⁽¹⁾ (Dec 03)	24.18	1	29
Toilet Attendant	4,914 ⁽²⁾	21.00	4,355 ⁽²⁾ (Dec 03)	18.61			
Hong Kong Police Force	Guard	6,510 ⁽¹⁾	31.30	6,787 ⁽³⁾ (Dec 03)	23.73	1	45
	Cleansing Worker	5,100 ⁽¹⁾	24.52	5,030 ⁽¹⁾ (Dec 03)	24.18	1	36
Agriculture, Fisheries and Conservation Department	Cleansing Worker	5,030 ⁽¹⁾	24.18	5,030 ⁽¹⁾ (Dec 03)	24.18	1	12
	Security Guard	4,936 ⁽¹⁾	23.73	6,787 ⁽³⁾ (Dec 03)	23.73	1	37

Department	Position	Offered Wages		Average Wages Published in Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics (month of issue in bracket)		No. of Contract	Estimated No. of Non-skilled Workers Involved
		Monthly wages (\$)	Hourly wages*	Monthly wages (\$)	Hourly wages* (\$)		
Housing Department	Security Guard	4,989 ⁽¹⁾	23.99	6,859 ⁽³⁾ (Mar 04)	23.98	1	25
	Cleansing Worker	5,030 ⁽¹⁾	24.18	5,030 ⁽¹⁾ (Dec 03)	24.18	15	583
	Cleansing Worker	5,030 ⁽¹⁾	24.18	5,030 ⁽¹⁾ (Dec 03)	24.18		
	Guard	4,936 ⁽¹⁾	23.73	6,787 ⁽³⁾ (Dec 03)	23.73	5	600
	Cleansing Worker	4,898 - 4,990 ⁽¹⁾	23.55 – 23.99	4,898 ⁽¹⁾ (Mar 04)	23.55		
	Guard	4,989 - 5,000 ⁽¹⁾	23.99 – 24.04	6,859 ⁽³⁾ (Mar 04)	23.98	5	770

Remarks :

- * To facilitate comparison, the hourly wages are calculated by dividing the monthly wages by the number of working days per month and that of working hours per day.
- (1) Monthly wage calculated on the basis of 8 working hours per day and 26 working days per month.
- (2) Monthly wage calculated on the basis of 9 working hours per day and 26 working days per month.
- (3) Monthly wage calculated on the basis of 11 working hours per day and 26 working days per month.
- (4) Monthly wage calculated on the basis of 8 working hours per day and 25 working days per month.