

Legislative Council Panel on Housing
Tightened Measures on Housing Authority's
Estate Management Service Contracts

Purpose

This paper sets out the latest contract and list management measures adopted by the Housing Authority to strengthen the protection for non-skilled workers employed under the Housing Authority's outsourced estate management service contracts.

Background

2. In order to safeguard the interests of non-skilled workers and to maintain the quality of estate management services, the Housing Authority ensures reasonable terms of employment for cleansing workers and security staff working in public housing estates. Since May 2004, the Housing Authority has adopted more stringent contract requirements, stepped up monitoring and enforcement against malpractices, and increased education and publicity efforts to strengthen labour protection in outsourced service contracts. Details are set out below.

Contract Requirements

3. To safeguard workers' interests, apart from stating explicitly that contractors must comply with the Employment Ordinance, employment-related terms are also spelled out in detail in outsourcing contracts. With clear contractual requirements on workers' working hours and wages, the Housing Department can take prompt enforcement action against any non-compliance. The new requirements include :

- (i) The wages offered by contractors to their non-skilled workers must not be less than the relevant average monthly wage published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics.
- (ii) In claiming their monthly contractual payments, contractors are required to submit standard salary statements showing the wages paid to workers and the calculations, duly signed by both parties and verified by qualified accountant.

- (iii) The contractors must pay their workers through autopay to facilitate verification.
- (iv) When processing the monthly contractual payments to contractors, the Housing Department will carry out random checks on the amount of wages actually received by workers. If any irregularities are found, through the “batch-payment adjustment” system, the part of the contract sum covering staff salaries for that month will be deducted by the same percentage of short payment to worker.
- (v) To prevent unscrupulous contractors from circumventing their contractual obligations through employment of “part-time” staff, the number of part-time workers is capped at no more than three-eighth of the total workforce for each contract.

Contract Enforcement and Supervision

4. To ensure strict contractual compliance, the Housing Department will check all employment contracts and monthly salary statements, conduct regular and surprise checks, and carry out random interviews with workers to ascertain that their actual wages and working hours are consistent with contract requirements. In addition, in assessing tenders, the Housing Department, through the inter-departmental Demerit Point System, takes into consideration the contractors’ performance and any record of malpractice in their contracts with other government departments. Similarly, the demerit points allotted under the Housing Authority’s outsourced contracts will also adversely affect the contractors’ opportunities in bidding for other government contracts. Under the current arrangements, one demerit point will be allotted for a breach in wage payment or working hours, or failure to sign standardised employment contracts with workers. Tenders submitted by contractors with six or more demerit points or three convictions under the Employment Ordinance, Employees Compensation Ordinance or Immigration Ordinance during the 12-month period prior to the tender closing date will be screened out.

Education and Publicity

5. To eradicate labour exploitation, it is crucial that workers understand their rights and are aware of the channels of complaint. In this connection, the

Housing Department requires contractors to put up notices showing the committed wages and working hours in the workplaces and common rooms of their workers. A telephone hotline has also been set up, and widely publicised through posters and Housing Channel broadcasts, for non-skilled workers to make enquiries and lodge complaints concerning employment and welfare-related matters. Moreover, a dedicated Central Monitoring Team has been formed to investigate workers' complaints and suspected cases of malpractice. On the education front, the Housing Department organises briefings jointly with the Labour Department to foster workers' awareness of their rights.

Latest Position

6. At present, the Housing Department has a total of 193 outsourced estate management, cleansing and security contracts. The new and more stringent contract terms are adopted in 98% of them. Since introduction of the new measures, the incidence of contractual non-compliance and contractors taking advantage of ambiguities in the contracts has decreased. Workers are more aware of their rights. Although employment-related enquiries and complaints are still received from time to time, our investigations show that in most cases labour exploitation is not an issue. In the past two years, no contractors on new contract terms have been convicted or allotted demerit points on employment-related offences. The convictions in this period concern those contracts still on old terms. Only three such contracts are in force but they will expire in September 2006. For these contracts, the Housing Department has stepped up monitoring and enforcement, including more frequent checking of employment contracts and salary statements, as well as more inspections and random interviews with workers to prevent malpractices. These measures have effectively deterred labour exploitation.

7. To further strengthen the procurement arrangements for estate management services, the Housing Department invited the Corruption Prevention Department of the Independent Commission Against Corruption (ICAC) to review the enforcement and monitoring arrangements for outsourced estate services contracts in mid-2004. The ICAC generally endorsed the measures we have adopted to protect the interests of the workers employed in outsourced contracts. In response to the recommendations of the ICAC, we have made further improvements in the operational procedures in contract management and enforcement to plug any possible loopholes.

Further Measures

8. Notwithstanding, new forms of labour exploitation still emerge, and the Housing Department has to put in an inordinate amount of resources in conducting checks, carrying out investigations and collating evidence. To root out labour exploitation and to ensure service quality, the Housing Authority has decided to further tighten up tender evaluation, contract administration and list management in order to strengthen the deterrent effect against employment related offences, with a view to eventually eliminating unscrupulous practices and contractors. The following measures will be implemented in new tenders and renewed contracts with effect from 1 May 2006:

(a) Tender Evaluation Criteria

- (i) Tenders from contractors convicted under the Employment Ordinance, Employees' Compensation Ordinance, Immigration Ordinance or Mandatory Provident Fund Scheme Ordinance in the 12-month period prior to the tender closing date will not be considered;
- (ii) One demerit point will be allotted for breach in wage payment or working hours, failure to enter into standard employment contracts with their workers, or failure to settle wage payment by autopay. Tenders from contractors who have been allotted three demerit points or more under Housing Authority or Government contract(s) in the 12-month period prior to the tender closing date will not be considered; and
- (iii) Contract will not be awarded to a tenderer who is convicted of employment-related offences or has accumulated three demerit points or more during the tender evaluation stage.

(b) Contract Administration

- (i) The Housing Department will terminate the service contract with the contractor if he has been allotted three or more demerit points or convicted of an employment-related offence during the contract period;

- (ii) The Housing Department will, under the Property Service Agent (PSA) contract conditions, instruct the PSA to remove the cleansing or security sub-contractor who has been convicted of an employment-related offence. The PSA's performance will also be rated as poor in the periodic assessment to reflect its poor management of sub-contractors; and
- (iii) To bring the PSA's sub-contractors under management control, the Housing Department will require the contractors to choose sub-contractors from the list(s) approved by the Housing Authority.

(c) List Management

To strengthen list management, upon implementation of the new measures on 1 May 2006, the Housing Department will remove a contractor who has been convicted under the relevant ordinances, or has accumulated three or more demerit points in Housing Authority or Government contracts over a three-year rolling period, from the approved list(s) for a maximum period of five years. The barring period will count from the date of conviction or the date on which the third demerit point is allotted.

The Way Forward

9. The above tightened measures on tender assessment and contract and list management will be supported by a rigorous monitoring system to achieve maximum effectiveness. The Housing Department will continue to adopt a multi-pronged strategy to strengthen the management of outsourced estate management service contracts. Meanwhile, we will explore the feasibility of establishing an electronic workers' attendance recording system to enhance the effectiveness of our monitoring efforts in protecting workers' interests.