

For Information

Subcommittee on Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012

ICAC's Response to Issue Raised by Members

Purpose

At the second meeting of the Sub-committee held on 13 April 2012, Members enquired on the corruption prevention measures to tighten the control of contractors engaged by public bodies to provide services which are non-core but of a relatively sensitive nature or which requires substantial public funds for the service delivery. This paper sets out ICAC's response.

Control on Outsourced Contractors/Service Providers

2. From corruption prevention angle, sensitive duties, such as law enforcement or those involving sensitive information, should be avoided from outsourcing. Only supporting functions may be outsourced if required.
3. Where there is a need to outsource, ICAC recommends that control on the service provider/contractor could be tightened by one or more than one of the following means, as appropriate:
 - a. Make the service provider/contractor a public body where the circumstance warrants and permits.
 - b. Include probity requirement as one of the listing conditions or contract requirements to commit the service provider/contractor to ethical practice.
 - c. Include in the contract requirements that the Corruption Prevention Department (CPD) of ICAC may conduct review on the systems and procedures of the service provider/contractor in relation to the delivery of the outsourced duties.
 - d. Step up supervisory control by the government department involved

such as conducting random checks and requiring regular reporting etc.

4. With probity provisions imposed on the outsourced service provider/contractor, their agents, employees and sub-contractors will be prohibited from offering, soliciting or accepting advantage in relation to the contracts. Breaches of such provisions will result in infringement of Section 9 of the Prevention of Bribery Ordinance for which a criminal sanction can be imposed. Connivance by the service provider/contractor would also attract regulatory action under the list management regime or contractual action under the outsourced contracts.

5. CPD of ICAC would offer corruption prevention advice and make recommendations to government departments and public bodies concerned to tighten control on the service providers/contractors as necessary.

**Corruption Prevention Department
Independent Commission Against Corruption
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