



Labour Department (Headquarters)

勞工處 (總處)

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16 July 2020

Ms Betty MA
Clerk to Panel on Manpower
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms MA,

**Panel on Manpower
List of follow-up actions**

I refer to the “List of follow-up actions” (LC Paper No. CB(2)968/19-20(02)) of the Panel on Manpower. The Government’s responses to the following items in the list are provided in the Annexes as set out –

- | | | |
|---------|--|---------|
| Item 4 | Occupational safety performance | Annex A |
| Item 7 | Enforcement of labour legislation by the Labour Administration Branch of the Labour Department | Annex B |
| Item 8 | Occupational disease and occupational health | Annex C |
| Item 9 | Review of the improvement measures for non-skilled employees engaged by government service contractors | Annex D |
| Item 10 | Employment Support Scheme and unemployment support measures | Annex E |

Yours sincerely,

(CHEUNG Hoi-shan)
for Commissioner for Labour

c.c. Secretary for Labour and Welfare (Attn: Mr Dominic CHOW)
Secretary for the Civil Service (Attn: Ms Josephine CHEUNG)
(w/ Annex E only)

**Panel on Manpower
List of follow-up actions**

Item 3: Occupational safety performance

- (a) The number of prosecutions initiated against employers for not reporting industrial accidents to the Labour Department in the past two years

Pursuant to Regulation 17 of the Factories and Industrial Undertakings Regulations (Cap. 59A) (FIUR), the proprietor of an industrial undertaking shall notify the Labour Department (LD) of an accident occurred at his industrial undertaking. Besides, according to Section 15 of the Employees' Compensation Ordinance (Cap. 282) (ECO), an employer shall notify LD of any accident causing injury to his employee in the course of employment. No report is required under FIUR if notice of the accident has been given under ECO.

2. According to LD's records, there were six prosecutions against proprietors of industrial undertakings, including three against direct employers of the injured persons, for failing to report industrial accidents to LD under Regulation 17 of FIUR in the past two years (i.e. 2018 and 2019). LD does not keep the breakdown of the number of prosecutions under Section 15 of ECO where the injury arose from an accident and in an industrial undertaking.

- (b) The names of contractors who had been removed from the List of Approved Contractors for Public Works in the past three years

3. Regarding the names of contractors being removed from the List of Approved Contractors for Public Works in the past three years, the Development Bureau (DEVB)'s response is as follows –

- DEVB has always attached great importance to site safety in public works, and has formulated a safety management system for public works projects (details at **Appendix** (in Chinese only)) under which multi-pronged measures covering project design, tender evaluation, contract terms, works control, regulatory system for contractors as well as publicity and promotion are

adopted to enhance site safety. According to DEVB, in respect of regulation of contractors, no contractors were removed from the List of Approved Contractors for Public Works due to poor site safety performance in the past three years.

- According to statistics, the accident rate for public works has significantly dropped by 90 per cent from about 56 per 1 000 workers in 1999 to about five per 1 000 workers in 2019. Despite an improving accident rate, DEVB will continue to review and enhance the current safety management system in a timely manner with the aim of achieving zero accidents, especially those involving work-related fatalities of workers.
- (c) The reasons for the Department of Justice's decision of not to accede to LD's request to consider filing reviews or appeals to the court in respect of the penalty imposed on the 42 cases convicted of offences under the Factories and Industrial Undertakings Ordinance (Cap. 59) and the Occupational Safety and Health Ordinance (Cap. 509) from 2014 to 2019 (up to October)

The number of reviews/appeals made by the Department of Justice in respect of the courts' decision on the 48 cases convicted of occupational safety offences from 2014 to 2020 (up to May 2020) and the relevant follow-up work taken

4. From 2014 to May 2020, LD requested the Department of Justice (DoJ) to consider filing a review or appeal in respect of 48 cases involving offences under the Occupational Safety and Health Ordinance (Cap. 509) and the Factories and Industrial Undertakings Ordinance (Cap. 59), in which a financial penalty was imposed. Out of these 48 cases, an application for review pursuant to section 104 of the Magistrates Ordinance (Cap. 227) has been lodged in 20 cases. Three of these cases have been concluded and review was successful in one case.

5. As to the remaining 17 cases in which an application for review has been lodged, DoJ has subsequently abandoned the application in 14 cases and is still considering the other three.

6. DoJ has declined to accede to LD's request to file an application for review or appeal in 28 cases.

7. The reason for DoJ's decision not to accede to LD's request for filing reviews or appeals to the court (28 cases) or to subsequently abandon the application for review (14 cases) was that the sentence in question was neither "wrong in principle" nor "manifestly inadequate" in consideration of all the relevant facts and circumstances of the cases, including the fines imposed in earlier cases.

工務工程項目的安全管理系統

發展局一向十分重視工務工程的工地安全。早於 1993 年，我們在工務工程合約已要求承建商執行一套符合指定標準的工地安全計劃，保障工友的安全。我們多年來不時檢討工務工程項目的安全管理系統，並在工程設計、標書審批、合約條款、工程監管、承建商規管制度和宣傳推廣方面採取多管齊下的措施，提升工地安全水平。

根據統計數字，工務工程的意外率，由 1999 年以每千人計的約 56 宗意外大幅降至 2019 年的約 5 宗意外，下降幅度達 9 成。雖然意外率有所改善，但發展局會以零意外(尤其是涉及工友因工死亡的意外)為目標，繼續檢視及適時優化現行的安全管理系統。

為提升工務工程安全的措施主要包括：

(a) 工程設計

發展局聯同職業安全健康局制定了「建築安全設計」指南／實例¹，並要求工務部門在進行工程設計時，周詳地考慮建造及維修時的施工安全。

(b) 標書審批

為促使承建商注重工地安全，發展局在現行標書評審機制²

¹ https://www.devb.gov.hk/filemanager/en/content_29/Design_for_Safety_Guidance_Notes.pdf
https://www.devb.gov.hk/filemanager/en/content_29/Design_for_Safety_Worked_Examples.pdf

² 詳情請參閱發展局技術通告第 4/2014 號和第 4/2014A 號
(<https://www.devb.gov.hk/filemanager/technicalcirculars/en/upload/332/1/C-2014-04-01.pdf>)
(<https://www.devb.gov.hk/filemanager/technicalcirculars/en/upload/352/1/C-2014-04-A-1.pdf>)

下，將承建商過往在工務工程的安全表現和工地意外率納入為標書評分項目。

(c) 合約條款

發展局在《建築地盤安全手冊》³訂明為提升工務工程工地安全的合約條款，包括要求承建商(i)提交及更新安全計劃書，(ii)聘請符合指定資格及經驗的安全主任和安全督導員，(iii)為工友提供施工安全訓練，及(iv)就施工方案進行安全風險評估並採取適切的風險緩減措施。

《建築地盤安全手冊》亦訂明，倘若工程合約的合約金額超過 10 億元或涉及非常規施工方法(例如需要在非常高氣壓的環境工作)，合約會加入條款要求承建商聘請獲職業安全健康局認可的獨立安全審核員，每 6 個月進行一次符合指定標準的安全審核。

(d) 工程監管

在工程期間，監督人員會透過工地巡查和文件審批，確保承建商遵從合約要求和相關法例的規定。監督人員會與承建商每月舉行工地安全管理委員會會議，巡視及討論工地安全情況。

(e) 承建商規管制度

發展局於《承建商管理手冊》訂立了一套規管制度，以確保只有合資格的承建商才可以投標承辦工務工程，並促使承建

³ https://www.devb.gov.hk/en/publications_and_press_releases/publications/construction_site_safety_manual/index.html

商持續改善工作表現。在工地安全方面，發展局主要是透過工作表現報告和研訊小組經研訊後的建議來考慮向承建商作出規管行動。

一般而言，監督人員會每季於承建商的工作表現報告內評核其安全表現。相關評核指引載於《承建商管理手冊》及發展局技術通告第 26/2000 號⁴。如在工作表現報告被評為「不合格」，承建商會收到警告信。倘若連續兩個工作表現報告被評為「不合格」，發展局便會要求承建商自願暫停投標資格。如該承建商拒絕要求，發展局會考慮單方面強制暫停其投標資格。假如承建商的表現持續差劣，發展局會考慮實施較嚴重的規管行動，包括將承建商於認可名冊上除名、降級至試用級別或降低組別，以確保只有合資格的承建商才可以投標承辦工務工程，並促使承建商改善工作表現。

當承建商在公營或私營工程中涉及嚴重事故或在 6 個月內超過 5 次觸犯涉及不同事故的工地安全罪行而被定罪，發展局便會根據《承建商管理手冊》及發展局技術通告第 3/2009 號⁵組成研訊小組展開研訊。

研訊小組的主席由發展局副秘書長(工務)擔任，成員包括相關工務部門代表和承建商商會代表。勞工處/海事處代表亦會以技術顧問的身份出席研訊。研訊小組會根據事故的嚴重性、承建商在事故中的角色和須承擔的責任比重、事故對公眾的影響、承建商有否採取適當預防/改善措施等因素，建議對承建商採取合適的規管行動。

按照發展局技術通告第 3/2009 號所訂立的指引，研訊小組可建議的規管行動包括發出警告信，要求承建商進行符合指定標準的獨立安全審核，要求承建商自願暫停投標的資格，

⁴ <https://www.devb.gov.hk/filemanager/technicalcirculars/en/upload/13/1/C-2000-26-0.pdf>

⁵ <https://www.devb.gov.hk/filemanager/technicalcirculars/en/upload/299/1/C-2009-03-0-1.pdf>

強制暫停投標資格，將承建商於認可投標名冊上除名、降級至試用級別或降低組別。發展局會考慮研訊小組的建議才決定向承建商實施一項或多項規管行動。

(f) 宣傳推廣

發展局一直與勞工處、建造業議會、職業安全健康局及相關持份者緊密合作，加強工地安全的宣傳推廣。相關活動包括舉辦建造業安全周研討會和嘉年華會、公德地盤嘉許計劃頒獎典禮、工地參觀及安全展覽等。

發展局

2020年3月

**Panel on Manpower
List of follow-up actions**

Item 7: Enforcement of labour legislation by the Labour Administration Branch of the Labour Department

- (a) Whether employers would be in breach of section 6 of the Occupational Safety and Health Ordinance (Cap. 509) if they failed to provide adequate and appropriate face masks and protective items for their employees while performing duties

Under section 6 of the Occupational Safety and Health Ordinance (OSHO), employers must, so far as reasonably practicable, safeguard the occupational safety and health of their employees at work. Employers therefore have the responsibility to conduct risk assessment for the work of their employees. If the result of the risk assessment indicates that their employees have a risk of COVID-19 infection while performing duties, the employers have a duty to provide appropriate and adequate protective equipment (such as face masks) for these employees to safeguard their occupational safety and health. Otherwise, the employers may contravene section 6 of OSHO.

- (b) Whether employers who failed to provide surgical masks to those employees confirmed to have infected with COVID-19 at workplaces would be liable for committing negligence under the Employees' Compensation Ordinance (Cap. 282)

2. According to the Employees' Compensation Ordinance (ECO), if an employee sustains an injury or dies as a result of an accident arising out of and in the course of his employment, or suffers from an occupational disease prescribed by the Second Schedule of ECO, his employer is in general liable to pay compensation under ECO. The existing employees' compensation system under ECO is primarily premised on a "no-fault" principle and employers' liability to pay compensation.

- (c) With regard to the conviction records for October to December 2019 on failure to pay wages or sums awarded by the Labour Tribunal or Minor Employment Claims Adjudication Board under the Employment Ordinance (Cap. 57) as shown on the Labour Department's webpage, the number of requests for application for review or appeal initiated by the Labour Department after consultation with the Department of Justice in respect of the penalties so imposed

3. Under the current judicial system, the decision on the quantum of sentence imposed on a convicted defendant rests with the court. The court takes into account multiple factors in sentencing, like the maximum penalty of the offence, the level of penalty imposed in similar offence in the past, the guilty-plea of the defendant, the mitigation of the defendant, totality principle, etc. The Labour Department (LD) looks into the sentence imposed by the court in every case. If the sentence for an individual case is manifestly inadequate or excessive, or it has proceeded on an error of law or of principle, LD would request the Department of Justice to consider making application to the court for review of the sentence under these exceptional circumstances. With regard to the conviction records for October to December 2019 on failure to pay wages and sums awarded by the Labour Tribunal or Minor Employment Claims Adjudication Board under the Employment Ordinance shown on the webpage of LD, there was no application for review or appeal against the sentence imposed on those cases.

- (d) The number of labour dispute cases handled by the Labour Relations Division of LD during suspension of counter services under the special work arrangement of government departments

4. From January to April 2020, the Labour Relations Division (LRD) of LD handled 32 labour disputes¹, an increase of 60% over the same period last year. LRD has not kept a separate breakdown of the number of labour disputes handled during its suspension of counter services.

¹ Labour disputes refer to cases involving over 20 employees.

**Panel on Manpower
List of follow-up actions**

Item 8: Occupational disease and occupational health

- (a) The number of employees infected with Legionnaires' disease in the past three years

In the past three years, there was one occupational disease case confirmed by the Labour Department (LD) in 2019 that had contracted Legionnaires' disease. The case involved a technician responsible for the maintenance of cooling towers of air-conditioning systems.

- (b) Follow-up work undertaken by the Labour Department upon notification of employees being contracted or suspected to have contracted COVID-19, in particular provision of its view/advice on the likelihood and relevance of the cases being work injury by accident arising out of and in the course of employment

2. LD has been proactively following up with employees' compensation claims with employees suspected to have contracted COVID-19 in employment based on the published information of the Centre for Health Protection of the Department of Health. LD also passes a bilingual note on employees' rights and protection under the Employees' Compensation Ordinance (Cap. 282) (ECO), as well as the contact means of LD, to all confirmed COVID-19 patients through hospitals. If an employee contracts or suspects having contracted COVID-19 by accident arising out of and in the course of employment, the employee should inform the employer as soon as possible so that the employer can report the injury to LD. In case of doubt as to whether the employer has reported the case to LD, the employee should approach the Employees' Compensation Division of LD for assistance direct.

3. In case of disputes over work injury compensation cases, LD will assist employers and employees in resolving such disputes. LD will examine the case in detail, explain the provisions of ECO to both employers and employees, and obtain detailed information related to the accident or disease contracted (e.g. infection), such as the employer's investigation report and copies of sick leave certificates issued to the

employee for the infection, etc. If necessary, LD will also obtain information from relevant government departments and organisations (such as contact tracing reports from the Department of Health and medical reports from the Hospital Authority or relevant medical practitioners) with the written consent of the employees. Depending on the merits of the case, Occupational Health Officers of LD will provide expert advice from the medical point of view. Upon collation of all relevant information, LD will provide its views to the employer and the employee on the likelihood and relevance of the case being a work injury. If the dispute cannot be resolved through LD, the employee may seek adjudication from the court and LD will assist the employee in seeking assistance from the Legal Aid Department.

**Panel on Manpower
List of follow-up actions**

Item 9: Review of the improvement measures for non-skilled employees engaged by government service contractors (“improvement measures”)

(a) Response to issues raised in the letter dated 15 June 2020 from Dr Fernando CHEUNG

The number of non-skilled employees engaged by the government service contractors (GSCs) of the four major procuring departments (i.e. (i) Food and Environmental Hygiene Department, (ii) Leisure and Cultural Services Department, (iii) Government Property Agency and (iv) Housing Department) broken down by the types of services and the range of committed hourly wages under the contracts as at 31 May 2020 is set out at **Appendix 1**.

2. The number and types of the contracts of the four major procuring departments to which the new measures under the outsourcing policy reform implemented by the Government are not applicable and the number of non-skilled employees, broken down by the financial year into which the expiry dates of the relevant contracts fell/will fall as at 31 May 2020 are set out at **Appendix 2**.

3. The respective to-date numbers of non-skilled employees providing cleansing and security services in the four major procuring departments who were granted benefits relating to the new measures are provided as follows:

- (i) The computer system of the **Food and Environmental Hygiene Department** does not keep record of the information on the to-date number of non-skilled employees who were granted benefits relating to the new measures. In view of the large number of contracts involved and the need to check individual cases or files at different district or team offices, more time is required to compile the requested data. The numbers of non-skilled employees in functional posts who are eligible to be granted benefits under the respective cleansing, security, and related services of cemeteries, crematoria and columbaria contracts are 3 696, 239 and 17 respectively, making a total of 3 952 employees.
- (ii) With the Government’s implementation of the outsourcing policy reform, there are around 8 700 non-skilled employees in the **Leisure and Cultural Services Department** who are entitled to the benefits or are granted benefits relating to the new measures.

- (iii) The **Government Property Agency (GPA)** does not keep record of the information on the to-date number of non-skilled employees who were granted benefits relating to the new measures. According to the information provided by the GSCs engaged by GPA, with the Government's implementation of the outsourcing policy reform, there are around 1 910 non-skilled employees who are entitled to the benefits relating to the new measures.
- (iv) With the Government's implementation of the outsourcing policy reform, there are around 10 600 non-skilled employees in the **Housing Department** who are entitled to the benefits or are granted benefits relating to the new measures.

4. Regarding the premature termination of some outsourced service contracts undertaken by Law's Cleaning Services Limited, the reply from the four major procuring departments and Labour Department is set out as follows:

- (i) The **Food and Environmental Hygiene Department (FEHD)** awards its service contracts that rely heavily on the deployment of non-skilled employees through open tender in accordance with the procurement requirements and procedures of the Government. A tenderer is required to complete a "statement of convictions" (statement) stating whether he has been convicted of the relevant offences¹ for the five years immediately preceding the tender closing date. A tenderer who has been convicted of the above relevant offences in the past five years will be debarred from tendering. To verify the authenticity of the statement, FEHD will check the conviction record of the tenderer with the relevant government departments (including the Immigration Department and the Labour Department) in respect of every tender.

FEHD was informed by the Immigration Department in October 2019 that Law's Cleaning Services Limited (contractor) was convicted and fined \$10,000 for employing illegal workers (i.e. section 17I(1) of the Immigration Ordinance (Cap. 115)) on 6 April 2017. FEHD noted

¹ Includes the specified offences under the Employment Ordinance (Cap. 57) and the Employees' Compensation Ordinance (Cap. 282), sections 17I(1), 38A(4) or 41 of the Immigration Ordinance (Cap. 115), section 89 of the Criminal Procedure Ordinance (Cap. 221) or sections 7, 7A or 43E of the Mandatory Provident Fund Schemes Ordinance (Cap. 485). For tender documents prepared after 1 April 2019, the scope of the debarment mechanism is expanded to cover the specified offences under the Occupational Safety and Health Ordinance (Cap. 509) and the Factories and Industrial Undertakings Ordinance (Cap. 59) and sections 7AA, 43B(3A) or 43BA(5) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

that the contractor appealed against the conviction and the appeal was dismissed by the Court of Final Appeal in April 2019. According to the record, since the contractor was convicted on 6 April 2017, FEHD had signed seven valid contracts with the contractor. After detailed examination of the seven tenders, it was confirmed that the contractor had stated in all the submitted statements that it had no conviction record in the past five years. Moreover, the Immigration Department also confirmed that the contractor had no conviction record in its reply to FEHD in respect of the examination of the seven tenders.

As the contractor had made false statements on submission of the tenders, FEHD had the right to terminate the contracts in accordance with the contract provisions. Of the seven contracts, three expired in late April and late June this year. Having carefully considered the actual situation as a whole and all other factors, FEHD decided, in consultation with the Department of Justice, to keep these three contracts alive until their respective expiry dates, while the remaining four contracts were terminated for re-tendering according to the applicable provisions of the contracts. A total of around 828 employees were affected. The tendering position of the four contracts is shown in the following table:

District and Type of Contract	Tendering Position	Contract Period
Street cleansing for Sai Kung District (Sai Kung)	Completed	1 July 2020 to 30 June 2022
Street cleansing for Tai Po District ²	Substantially completed	1 August 2020 to 31 July 2022
Street cleansing for Kwai Tsing District ²	Underway	1 September 2020 to 31 August 2022
Pest Control for Yau Tsim District	Underway	1 October 2020 to 30 September 2023

² The new contract is divided into two tenders for invitation in light of the actual operational needs and for the sake of service improvement.

The information of service contracts awarded, including names of contractors and contract period, has been uploaded to the “Contract Award Notice” of the website of the Government Logistics Department (<https://pcms2.gld.gov.hk/iprod/#/home?lang-setting=en-US>).

To ensure that the new contractor undertakes and provides the services successfully, FEHD will meet with the new contractor before contract commencement for a discussion on the handover arrangements, pre-contract preparations and relevant work plans devised so as to facilitate the new contractor to fulfil the contract.

The existing street cleansing service contracts for Sai Kung District (Sai Kung), Tai Po and Kwai Tsing Districts are old tenders made before the new measures came into effect and therefore cannot benefit from the new measures. The wages of the employees concerned are lower than those employed under service contracts tendered after 1 April 2019. Since 1 April 2019, FEHD, when procuring service contracts which rely heavily on the engagement of non-skilled employees, has implemented improvement measures introduced by the Government (including provision of contractual gratuities, an employee with no less than one month’s service would be entitled to statutory holiday pay, and an employee who works when Tropical Cyclone Warning Signal No. 8 or above is in force would be entitled to no less than 1.5 times of the wages) to safeguard the employment benefits of non-skilled employees. FEHD believed that the affected employees will have their wages increased in real terms after re-employment. For example, the committed monthly wages for cleansing employees on average has increased to \$11,610 from \$9,089 in late 2018, representing a rise of almost 28%, or 25% higher than the monthly wages at \$9,300 as calculated by the Statutory Minimum Wage with effect from 1 May 2019.

To maintain the integrity and credibility of the Government’s tendering system, it is necessary for FEHD to terminate the four contracts. This is an isolated incident. Affected employees can contact the Labour Department if they need assistance on matters related to employees’ right and wage security.

- (ii) At present, the **Leisure and Cultural Services Department** does not have any outsourced service contracts undertaken by Law’s Cleaning Services Limited.

- (iii) At present, the **Government Property Agency** does not have any outsourced service contracts which involved Law's Cleaning Services Limited.
- (iv) At present, Law's Cleaning Services Limited is not on the Hong Kong Housing Authority List of Cleansing Service Contractors and cannot submit tenders for cleansing service contracts for public housing estates under the **Hong Kong Housing Authority**.
- (v) **Labour Department:**

Pursuant to the Employment Ordinance, an employee who is dismissed by reason of redundancy after having been engaged by the employer for not less than 24 months under a continuous contract is entitled to severance payment.

Whether the employees of GSCs are entitled to severance payment upon an early termination of the service contract by the procuring department will be subject to the facts and circumstances of individual cases, for example, whether the employees have been dismissed and the reason for their dismissal, the length of service of the employees, whether the original employer (i.e. the previous service contractor) has offered to renew the contract of employment or re-engage the employees with employment terms not less favourable than the existing ones, etc. Furthermore, notwithstanding the termination of the service contract by the procuring department, the contractor may negotiate with the concerned employees on deployment to continue to work in its other service contracts as far as practicable, to the effect that the employees' continuity of employment and entitlements under the Employment Ordinance will not be affected.

The Government has implemented improvement measures from April 2019 for enhancing the employment terms and conditions as well as labour benefits of non-skilled employees engaged by GSCs. Under the improvement measures, GSCs are required to pay contractual gratuity to their non-skilled employees pursuant to the terms of government service contracts and Standard Employment Contract. The contractual gratuity is payable to non-skilled employees with no less than one year of continuous contract as defined under the Employment Ordinance who complete an Standard Employment Contract, or whose Standard Employment Contract is terminated (including resignation by employees, or dismissal by employers save for summary dismissal due to the employee's serious misconduct). The rate of the gratuity is 6% of the total wages earned by the employee during the relevant employment period.

If the employees have any questions about their employment rights and benefits, they may approach the branch offices of the Labour Relations Division of the Labour Department for assistance.

5. Regarding the review on disbursement of a monthly allowance of HK\$1,000 to outsourced pest control workers, the reply from the four major procuring departments is set out as follows:

- (i) The disbursement of allowance under the Anti-epidemic Fund aims at supporting cleansing and security employees engaged by the GSCs in anti-epidemic efforts. Eligible employees will receive a monthly allowance of \$1,000. Following a review on the relevant arrangements by the Government, the procuring departments will disburse allowance to pest control employees who perform frontline cleansing duties. The **Food and Environmental Hygiene Department** notified the contractors concerned of the disbursement of allowance on 12 June and asked them to grant allowance to employees who have performed relevant duties since March as soon as possible.
- (ii) The **Leisure and Cultural Services Department (LCSD)** has already disbursed the monthly allowance of \$1 000 to over 10 000 eligible cleansing and security employees through its contractors. Besides, LCSD has notified the pest control service contractors concerned of the disbursement of allowance and asked them to grant allowance to employees who have performed relevant duties since March as soon as possible.
- (iii) There is no functional post for pest control in the outsourced service contracts of the **Government Property Agency (GPA)**. GPA will continue to disburse allowance to eligible employees in accordance with the existing relevant policies and guidelines.
- (iv) There is no functional post for pest control in the outsourced service contracts of the **Hong Kong Housing Authority (HA)**. HA will disburse allowance to eligible employees in accordance with the Government policy.

6. Regarding whether the Government would provide cleansing employees, especially those working in public toilets, with more than two masks, and equipment such as face shields and googles, and strengthen inspection and report on contractors so as to urge them to provide employees with appropriate and adequate protective equipment, the reply from the four major procuring departments is set out as follows:

In the light of the development of COVID-19 epidemic and the tight supply of masks at that time, the Government understood that outsourced cleansing service contractors had encountered difficulties in procuring masks. To protect the health of frontline employees engaged by contractors and maintain environmental hygiene, the Chief Executive announced on 8 February 2020 that masks would be set aside for distributing to frontline outsourced contract cleansing employees as a temporary measure.

- (i) Since 17 February 2020, the **Food and Environmental Hygiene Department (FEHD)** has been distributing a mask every working day to each cleansing employee (including those cleaning public toilets) employed by public cleansing service and market management service contractors, and with effect from 2 April, the distribution arrangements of masks has been extended to the contractors' frontline foremen and drivers on duty as well as the frontline employees of those contractors providing pest control services. On 5 May, the Chief Executive announced that as summer days were about to come, the Government would, with effect from mid-May, double the supply of masks for each frontline cleansing employee of all government outsourced cleansing service contracts, i.e. increasing from one to two masks per person per working day.

Contractors have the obligation to provide adequate and appropriate protective equipment to their cleansing employees. FEHD's distribution of masks to cleansing employees engaged by the contractors is a special and temporary measure. The Government will continue to pay attention to the supply of masks and according to the actual situation, arrange distribution of an appropriate amount of masks to cleansing employees engaged by the contractors.

It is stipulated in the FEHD's service contracts concerned that contractors must abide by all relevant legislations in performance of service contracts, including the Occupational Safety and Health Ordinance (Cap. 509) and their subsidiary legislation. Contractors have the responsibility to ensure the occupational safety and health of their staff at work, including assessing the risks of employees working under various environments and taking appropriate precautionary measures, providing adequate and appropriate personal protective clothing, equipment (including face shields and goggles), safety training and suitable working arrangements, etc. FEHD will conduct regular and surprise inspections to check the contractors' performance.

Contractor who is found or suspected to have contravened the above Ordinance during their routine inspections will be referred to relevant departments for follow-up actions.

- (ii) The **Leisure and Cultural Services Department (LCSD)** attaches great importance to the occupational safety and health arrangements for employees engaged by the contractors (including frontline outsourced cleansing employees). Early this year, LCSD provided working guidelines to all contractors, with reference to the “Health Advice on Prevention of Severe Respiratory Disease associated with a Novel Infectious Agent in Workplace” issued by the Centre for Health Protection of the Department of Health, and reminded the contractors to comply with the relevant provisions of the contracts and all relevant legislations in performance of service contracts, including the Occupational Safety and Health Ordinance, to provide all employees with adequate and appropriate personal protective clothing, equipment (such as masks, sanitising items, etc.), safety training and suitable working arrangements, etc. Contractors should also continue to procure masks and other personal protective equipment actively so as to safeguard the occupational safety and health of their employees. Cleansing service contractors have the obligation to provide appropriate and adequate protective equipment to their employees. Having said that, to ensure adequate equipment for protection for cleansing employees during the epidemic period, LCSD has, according to the government arrangements and allocation, distributed a mask every working day to each cleansing employee since February this year. With effect from May this year, the supply has increased to two masks per person per working day, so that employees can wear masks when performing routine cleansing duties. LCSD will continue to remind GSCs to actively procure masks and other appropriate personal protective equipment for their employees.
- (iii) The **Government Property Agency (GPA)** has, according to the government arrangements and allocation, distributed a mask every working day to each cleansing employee engaged by the GSCs since mid-February this year. With effect from mid-May this year, the supply has increased to two masks per person per working day, so as to provide the employees with appropriate protection when they perform routine cleansing duties. It is stipulated in GPA’s outsourcing contracts that contractors have the responsibility to ensure the occupational safety and health of their staff at work, including taking appropriate precautionary

measures, providing adequate and appropriate personal protective equipment (such as masks) for employees working under various environments. GPA will continue to monitor the situation to ensure compliance with the obligation by the contractors.

- (iv) The **Hong Kong Housing Authority (HA)** has, according to the government arrangements and allocation, distributed a mask every working day to each cleansing employee engaged by the GSCs since 17 February this year. With effect from mid-May this year, the supply has increased to two masks per person per working day, so that employees can wear masks when performing routine cleansing duties. HA will continue to distribute masks to the frontline cleansing employees engaged by its contractors in accordance with the government policy. Under section 6 of the Occupational Safety and Health Ordinance, employers (including GSCs of HA) have a statutory duty to, so far as reasonably practicable, safeguard the occupational safety and health of their employees at work. Employers therefore have the responsibility to conduct risk assessment for the work of their employees and subject to the results of the risk assessment, take appropriate precautionary measures, including to provide the employees with adequate and appropriate personal protective equipment (such as masks, goggles, etc.) as and when necessary. Various offices of HA will closely monitor the GSCs' performance, and will issue written warnings to request immediate corrective actions if any irregularities of the legislation and contract are found.

- (v) **Labour Department (LD):**

Under section 6 of the Occupational Safety and Health Ordinance, employers (including outsourced cleansing service contractors) must, so far as reasonably practicable, safeguard the occupational safety and health of their employees at work. Employers therefore have the responsibility to conduct risk assessment for the work of their employees. If the result of the risk assessment indicates that their employees have a risk of infection while at work, the employers have a duty to take appropriate precautionary measures, including to provide the employees with adequate and appropriate personal protective equipment (such as masks, goggles, etc.) as and when necessary to safeguard the occupational safety and health of the employees.

During the outbreak of COVID-19, LD has arranged to inspect the workplaces of the government outsourced cleansing service contractors to ensure that the responsible persons provide the necessary personal protective equipment to the cleansing employees in accordance with the above-mentioned legal requirements. If there is any breach of the said requirements, LD will take corresponding enforcement actions, including initiation of prosecutions. LD will continue to monitor closely the situation and will further enhance inspections if necessary.

(b) Percentage of the government service contracts (“contracts”) implementing the improvement measures among all government service contracts under the four major procuring departments as at 31 May 2020

7. Percentage of the government service contracts (“contracts”) implementing the improvement measures among all government service contracts under the four major procuring departments as at 31 May 2020 is set out at **Appendix 3**.

(c) Statistics on the number of government service contracts (“contracts”) awarded with “lowest bid wins” before and after the implementation of the improvement measures under the four major procuring departments as at 31 May 2020

8. Statistics on the number of government service contracts (“contracts”) awarded with “lowest bid wins” before and after the implementation of the improvement measures under the four major procuring departments as at 31 May 2020 is set out at **Appendix 4**.

Appendix 1

Number of non-skilled employees engaged by the government service contractors of the four major procuring departments broken down by types of services and the range of committed hourly wages as at 31 May 2020

Types of service	Procuring department	Number of non-skilled employees							
		Hourly wage of non-skilled employees (\$)							
		37.5	37.6-39.5	39.6-41.5	41.6-43.5	43.6-45.5	45.6-47.5	47.6 or above	Total
Cleansing	FEHD ^{Note 1}	1 700	2 039	2 563	1 195	205	774	2 824	11 300
	LCSD	1 453	1 611	495	866	1 412	259	50	6 146
	HD	20	61	48	114	187	360	161	951
	<i>Sub-total</i>	<i>3 173</i>	<i>3 711</i>	<i>3 106</i>	<i>2 175</i>	<i>1 804</i>	<i>1 393</i>	<i>3 035</i>	<i>18 397</i>
Security	FEHD ^{Note 1}	231	199	66	0	0	0	34	530
	LCSD	722	253	298	1 259	116	97	458	3 203
	HD	0	19	78	420	49	68	279	913
	<i>Sub-total</i>	<i>953</i>	<i>471</i>	<i>442</i>	<i>1 679</i>	<i>165</i>	<i>165</i>	<i>771</i>	<i>4 646</i>
Others	FEHD ^{Note 1} (related services of cemeteries, crematoria & columbaria and manual consignment handling services)	4	10	0	0	6	0	13	33
	LCSD (horticultural maintenance and venues management services)	833	95	323	0	0	0	191	1 442

Types of service	Procuring department	Number of non-skilled employees							
		Hourly wage of non-skilled employees (\$)							
		37.5	37.6-39.5	39.6-41.5	41.6-43.5	43.6-45.5	45.6-47.5	47.6 or above	Total
	GPA (comprehensive property services/facility management) ^{Note 2}	0	0	495	1 278	260	0	230	2 263
	HD (property services)	0	122	114	453	96	197	1 583	2 565
	<i>Sub-total</i>	<i>837</i>	<i>227</i>	<i>932</i>	<i>1 731</i>	<i>362</i>	<i>197</i>	<i>2 017</i>	<i>6 303</i>
All types	FEHD ^{Note 1}	1 935	2 248	2 629	1 195	211	774	2 871	11 863
	LCSD	3 008	1 959	1 116	2 125	1 528	356	699	10 791
	GPA ^{Note 2}	0	0	495	1 278	260	0	230	2 263
	HD	20	202	240	987	332	625	2 023	4 429
	Total	4 963	4 409	4 480	5 585	2 331	1 755	5 823	29 346

Notes:

- 1 The hourly wage of non-skilled employees is calculated by dividing the monthly wage as committed by the contractors in the contracts by 31 days (27 working days plus 4 paid rest days) per month and 8 hours (all non-skilled employees except toilet attendants) or 9 hours (toilet attendants).
- 2 The above information on the number of non-skilled employees is provided by the contractors concerned.

FEHD: Food and Environmental Hygiene Department
 HD: Housing Department

LCSD: Leisure and Cultural Services Department

GPA: Government Property Agency

Appendix 2

The number and types of the contracts of the four major procuring departments to which the new measures under the outsourcing policy reform implemented by the Government are not applicable and the number of non-skilled employees broken down by the financial years into which the expiry dates of the relevant contracts fell/will fall as at 31 May 2020

Financial year into which the expiry dates of relevant contracts fell/will fall	Number of contracts													Number of non-skilled employees													
	Cleansing				Security				Others					Cleansing				Security				Others					
	FEHD Note 1	LCSD	HD	Sub-total	FEHD ^{Note 1}	LCSD	HD	Sub-total	FEHD Notes 1, 2	LCSD Note 3	GPA ^{Note 4}	HD Note 5	Sub-total	FEHD Note 1	LCSD	HD	Sub-total	FEHD Note 1	LCSD	HD	Sub-total	FEHD Notes 1,2	LCSD Note 3	GPA ^{Note 4}	HD Note 5	Sub-total	
2019-2020	0 ^{Note 6}	0	0	0	0 ^{Note 6}	0	0	0	0 ^{Note 6}	0	0	5	5	0	0	0	0	0	0	0	0	0	0	0	0	12	12
2020-2021	23	6	11	40	1	12	22	35	1	12	1	20	34	2 354	1 186	344	3 884	58	651	1 025	1 734	6	471	353	2 325	3 155	
2021-2022	13	10	0	23	6	4	0	10	0	6	0	8	14	121	247	0	368	122	97	0	219	0	178	0	844	1 022	
2022-2023 or after	6	0	0	6	0	0	0	0	0	0	0	4	4	41	0	0	41	0	0	0	0	0	0	0	388	388	
Total	42	16	11	69	7	16	22	45	1	18	1	37	57	2 516	1 433	344	4 293	180	748	1 025	1 953	6	649	353	3 569	4 577	

Notes:

- 1 The number of outsourced employees is the number of functional posts specified in the contracts.
- 2 Includes related services of cemeteries, crematoria and columbaria.
- 3 Includes horticultural maintenance and venues management service contracts.
- 4 Includes comprehensive property services/facility management contracts.
- 5 Includes property service contracts.
- 6 All contracts expiring in 2019-20 were renewed in accordance with the new policy after the reform.

FEHD: Food and Environmental Hygiene Department
HD: Housing Department

LCSD: Leisure and Cultural Services Department

GPA: Government Property Agency

Appendix 3

Percentage of the government service contracts (“contracts”) implementing the improvement measures among all valid government service contracts under the four major procuring departments as at 31 May 2020

Procuring Department	FEHD	GPA	HD	LCSD	Total
Number of contracts with improvement measures <small>Note 1</small>	94	6	175	54	329
Total number of valid contracts <small>Note 2</small>	144	7	229	104	484
Percentage of contracts implementing the improvement measures among all valid contracts	65%	86%	76%	52%	68%

Notes

1 Include contracts awarded from 1 April 2019 to 31 May 2020, and contracts awarded from 10 Oct 2018 to 31 March 2019 under transitional arrangements.

2 Include contracts awarded before 10 October 2018.

FEHD: Food and Environmental Hygiene Department

HD: Housing Department

GPA: Government Property Agency

LCSD: Leisure and Cultural Services Department

Appendix 4

Statistics on the number of government service contracts (“contracts”) awarded with “lowest bid wins” before and after the implementation of the improvement measures under the four major procuring departments as at 31 May 2020

Procuring Department	FEHD	GPA	HD	LCSD	Total
Before implementation of the improvement measures on 1 April 2019					
Number of contracts awarded with “lowest bid wins”	24	0	43	30	97
Total number of contracts	46	0 ^{Note 2}	84 ^{Note 3}	50	180
Percentage of contracts awarded with “lowest bid wins”	52%	0%	51%	60%	54%
After implementation of the improvement measures from 1 April 2019 to 31 May 2020					
Number of contracts awarded with “lowest bid wins”	12	0	31	15	58
Total number of contracts	50 ^{Note 1}	0 ^{Note 2}	91	45	186
Percentage of contracts awarded with “lowest bid wins”	24%	0%	34%	33%	31%

Notes:

- 1 The total number of contracts from 1 April 2019 to 31 May 2020 is more than the total number of last contracts by 4. Because 4 of the last contracts have been split into 8 contracts during renewal.
- 2 The outsourced service contracts under the purview of Government Property Agency are awarded under the two-envelope tendering system (i.e. by evaluating both technical and price proposals submitted by tenderers). They are not awarded on the basis of “lowest bid wins”.
- 3 No previous contract for 7 Home Ownership Scheme (HOS) property management contracts.

FEHD: Food and Environmental Hygiene Department
 HD: Housing Department

GPA: Government Property Agency
 LCSD: Leisure and Cultural Services Department

**Panel on Manpower
List of follow-up actions**

Item 10: Employment Support Scheme and unemployment support measures

Information on the number of applications so received for the time-limited Executive Service Assistant positions offered under the Anti-epidemic Fund

With a view to relieving the worsening unemployment situation due to the epidemic, the Government has earmarked \$6 billion under the Anti-epidemic Fund to create around 30 000 time-limited jobs in both the public and private sectors in the coming two years for people of different skill sets and academic qualifications. Among them, different Government bureaux or departments (B/Ds) will provide over 300 time-limited positions of Executive Service Assistant (ESA).

2. The Civil Service Bureau (CSB) is co-ordinating with B/Ds regarding the recruitment of ESA, so as to enhance efficiency and to save the same applicant having to submit multiple applications to different B/Ds. The time-limited ESA positions were open for application from 16 to 29 June 2020. By end of the application period, CSB received about 10 300 applications and is processing the applications.