

## LCQ14: Government outsourced service contracts

Following is a question by the Hon Luk Chung-hung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (July 8):

Question:

Regarding those government outsourced service contracts (contracts) that rely heavily on the employment of non-skilled employees, will the Government inform this Council:

(1) of the numbers and total value of the contracts awarded by various government departments and the numbers of non-skilled employees involved, in each of the past three years, with a breakdown by the category of services (i.e. cleansing, security, and others) procured under the contracts;

(2) of the following information from May 1, 2019 (i.e. the effective date of the prevailing statutory minimum wage rate) to June 30, 2020:

(A) the respective numbers of non-skilled employees employed by the outsourced service contractors (contractors) under the four major procuring departments (i.e. (i) Leisure and Cultural Services Department, (ii) Housing Department, (iii) Food and Environmental Hygiene Department and (iv) Government Property Agency) (set out in Table 1);

Table 1

Procuring departments	(i)	(ii)	(iii)	(iv)
Number of non-skilled employees				

(B) a breakdown of the numbers in (A) by the range to which the hourly wages payable to non-skilled employees belonged (i.e. hourly wage (a) at \$37.5 [equal to the statutory minimum wage], (b) between \$37.6 and \$39.5, (c) between \$39.6 and \$41.5, (d) between \$41.6 and \$43.5, (e) between \$43.6 and \$45.5, (f) between \$45.6 and \$47.5, (g) between \$47.6 and \$49.5, (h) between \$49.6 and \$51.5, (i) between \$51.6 and \$53.5, (j) at \$53.6 or more, and (k) at a rate higher than the statutory minimum wage rate [which is equal to the total of (b) to (j)]), as pledged by the contractors in the tenders, and their respective percentages (set out in Table 2); and

Table 2

Range of hourly wages	(i)		(ii)		(iii)		(iv)	
	Number of employees	%	Number of employees	%	Number of employees	%	Number of employees	%
(a)								
...								
(k)								
Total		100		100		100		100

(C) in respect of each of the ranges of hourly wages mentioned in (B), a breakdown of the following figures by the category of services (i.e. cleansing, security, and others) provided by the non-skilled employees: the number of such employees employed by the contractors under each of such departments, the subtotals of these numbers and the relevant percentages, and (X) the year-on-year rates of change of such subtotals (set out in Table 3);

Table 3

Range of hourly wages	Cleansing service							Security service							Other services							Total	%
	(i)	(ii)	(iii)	(iv)	Subtotal	%	(X)	(i)	(ii)	(iii)	(iv)	Subtotal	%	(X)	(i)	(ii)	(iii)	(iv)	Subtotal	%	(X)		
(a)																							
...																							
(k)																							
Total						100							100							100			100

(3) of the details of the re-tendering exercises for the outsourced services concerned which were/will be conducted by the four aforesaid major procuring departments last year and this year, including the names of the contractors before tenders were/are invited, the commencement dates of the new contracts and the service districts involved, as well as the names of the successful contractors;

(4) given that the Government announced on October 10, 2018 that it would introduce a number of new measures which aim at enhancing the protection of the employment terms and conditions as well as labour benefits of non-skilled workers, but these new measures and the transitional arrangements concerned are not applicable to contracts awarded before that date of announcement, of the number of such contracts which have not yet expired at present and the percentage of such contracts in the total number of contracts; of the expected completion dates of the re-tendering exercises for the outsourced services concerned;

(5) whether it will consider providing subsidies for the non-skilled employees employed under the contracts mentioned in (4), so as to compensate them for the differences between their remuneration packages and those stipulated under existing contracts; and

(6) given that at present, a non-skilled employee with no less than one year's continuous service under a Standard Employment Contract of a government outsourced service contract is entitled to a contractual gratuity,

whether the Government will consider relaxing the relevant restrictions (e.g. affording those employees who have less than one year's service when their employment is terminated contractual gratuities calculated on a pro rata basis), so as to eradicate evasion of payment of contractual gratuities by employers through early termination of contracts?

Reply:

President,

Having consulted the relevant policy bureaux and departments, my consolidated response to the Member's questions is set out below:

(1) In the past three years, the number and total value of the service contracts awarded by the four major procuring departments (i.e. (i) Leisure and Cultural Services Department, (ii) Housing Department, (iii) Food and Environmental Hygiene Department and (iv) Government Property Agency) and the number of non-skilled employees involved are set out at Annex 1.

(2) As at May 31, 2020 (the date when the most updated data are available in the four major procuring departments):

(A) Table 1 sets out the number of non-skilled employees employed by the outsourced service contractors in the four major procuring departments:

Table 1

Procuring departments	(i)Leisure and Cultural Services Department	(ii)Housing Department	(iii)Food and Environmental Hygiene Department	(iv)Government Property Agency
Number of non-skilled employees	10 791	5 807	11 863	1 910[Note]

Note: Information on the numbers of non-skilled employees above is provided by relevant service contractors.

Reply to (B) and (C) are set out at Annex 2.

(3) The details of the outsourced services contracts tendered and awarded from April 1, 2019 (the commencement date of the improvement measures) to May 31, 2020 by the four major procuring departments and the names of last contractors is set out at Annex 3.

(4) The number of valid service contracts that were awarded before the commencement of the improvement measures (i.e., awarded before October 10, 2018) and the percentage of such contracts in the total number of contracts in the four major procuring departments are provided as follows:

Procuring departments	Number of valid contracts awarded before 10.10.2018	Percentage of these contracts in the total number of contracts	Leisure and Cultural Services Department	50	48%
Housing Department	45[Note]	21%			
Food and Environmental Hygiene Department	50	35%			
Government Property Agency	1	14%			
Total	146				

Note: Nine HOS/GSH property management contracts are excluded. For the Property Management Agency Contracts of the brand new HOS/GSH courts, upon expiry of the 2-year initial contract, the procurement of the subsequent service contracts shall be decided by a resolution of the owners passed as a general meeting/meeting of owners in accordance with the Building Management Ordinance (Cap. 344).

The expected completion dates of the re-tendering exercises for these outsourced services for the four major procuring departments are set out as follows:

(i) Leisure and Cultural Services Department

It is estimated that 26 and the remaining 24 out of the 50 contracts will be expired in 2020 and 2021 respectively. The tender exercises of the above contracts are expected to be completed before the end of the contracts concerned.

(ii) Housing Department

Among 45 contracts, 28 will be expired in 2020, 13 will be expired in 2021, one will be expired in 2022 whereas the remaining 3 will be expired in 2023. The tender exercises of the above contracts are expected to be completed before the end of the contracts concerned.

(iii) Food and Environmental Hygiene Department

It is estimated that 25, 18, 4 and 3 out of the 50 contracts will be renewed in 2020-2021, 2021-2022, 2022-2023 and 2023-2024 financial years respectively.

(iv) Government Property Agency (GPA)

The above contract was awarded by Highways Department in the Financial Year 2017-18 and has been taken over by the GPA since 2020 for the provision of management, operation and maintenance services to the boundary crossing facilities at the Hong Kong-Zhuhai-Macao Bridge Hong Kong Port. The term of the service contract is until the end of 2020. The GPA will carry out the re-tendering work in due course.

(5) If acceded to, this could have significant implications on all procuring Bureaux/Departments in terms of their contract management duties as well as finances. The then inter-bureaux/departamental Working Group, when proposing the sets of improvement measures, have also considered this issue. In view of the principle of prudent use of public funds, the financial implications for

top-up payments and the administrative cost in providing top-up payments in the form of reimbursement to government service contractors (GSCs), the improvement measures and the top-up payment as a one-off measure under the transitional arrangement are not applicable to service contracts awarded before October 10, 2018.

(6) Having considered the possible change of GSCs upon expiry of service contracts, the Government introduced contractual gratuity to forestall labour disputes between GSCs and non-skilled employees over payment of severance payment. The eligibility requirement for contractual gratuity (minimum 1 year of employment) is in fact more lenient than severance payment (minimum 24 months of employment).

The arrangement of contractual gratuity helps forestall labour disputes between GSCs and non-skilled employees over the termination compensation. Government service contracts engage a large number of non-skilled employees and GSCs have to provide sufficient manpower to fulfill the requirements of service contracts. The labour supply of these posts is still tight and we do not see the trend of GSCs dismissing their employees at will to evade payment of contractual gratuity. The Government will keep in view of the situation and will inform relevant procuring departments and conduct review as appropriate should GSCs be suspected of dismissing employees at will to evade payment of contractual gratuity.