

## **CHAPTER 8**

**Food and Environmental Hygiene Department**

**Outsourcing of environmental hygiene services**

**Audit Commission  
Hong Kong  
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*This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.*

Report No. 49 of the Director of Audit contains 12 Chapters which are available on our website at <http://www.aud.gov.hk>.

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# OUTSOURCING OF ENVIRONMENTAL HYGIENE SERVICES

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## **PART 1: INTRODUCTION**

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

### **Background**

1.2 Government outsourcing is an arrangement where a department contracts with an external service provider for a continuous period for the provision of services specified and paid by the department. This arrangement supports the Government's policy of serving the community by engaging private-sector services. The common objectives of government outsourcing include:

- (a) improving existing services and meeting increasing demands and new service requirements;
- (b) attaining better cost-effectiveness and efficiency;
- (c) increasing flexibility of responding to fluctuating demands;
- (d) containing growth in the civil service; and
- (e) gaining access to new skills and technology in the market place.

### **Audit review of government outsourcing**

1.3 The Audit Commission (Audit) has recently conducted a review of government outsourcing, which covers the Food and Environmental Hygiene Department (FEHD), the Housing Department (HD), and the Leisure and Cultural Services Department (LCSD). These three departments have had substantial outsourcing activities. According to the 2006 Survey on Government Outsourcing conducted by the Efficiency Unit (EU), these three departments had an annual outsourcing expenditure on non-works contracts (i.e. service contracts) of \$5.2 billion, accounting for about 43% of the total government outsourcing expenditure on such contracts. The audit findings are contained in three separate reports, as follows:

- (a) outsourcing of environmental hygiene services (the subject matter of this report);
- (b) outsourcing of services in the Leisure and Cultural Services Department (see Chapter 9 of the Director of Audit's Report No. 49); and

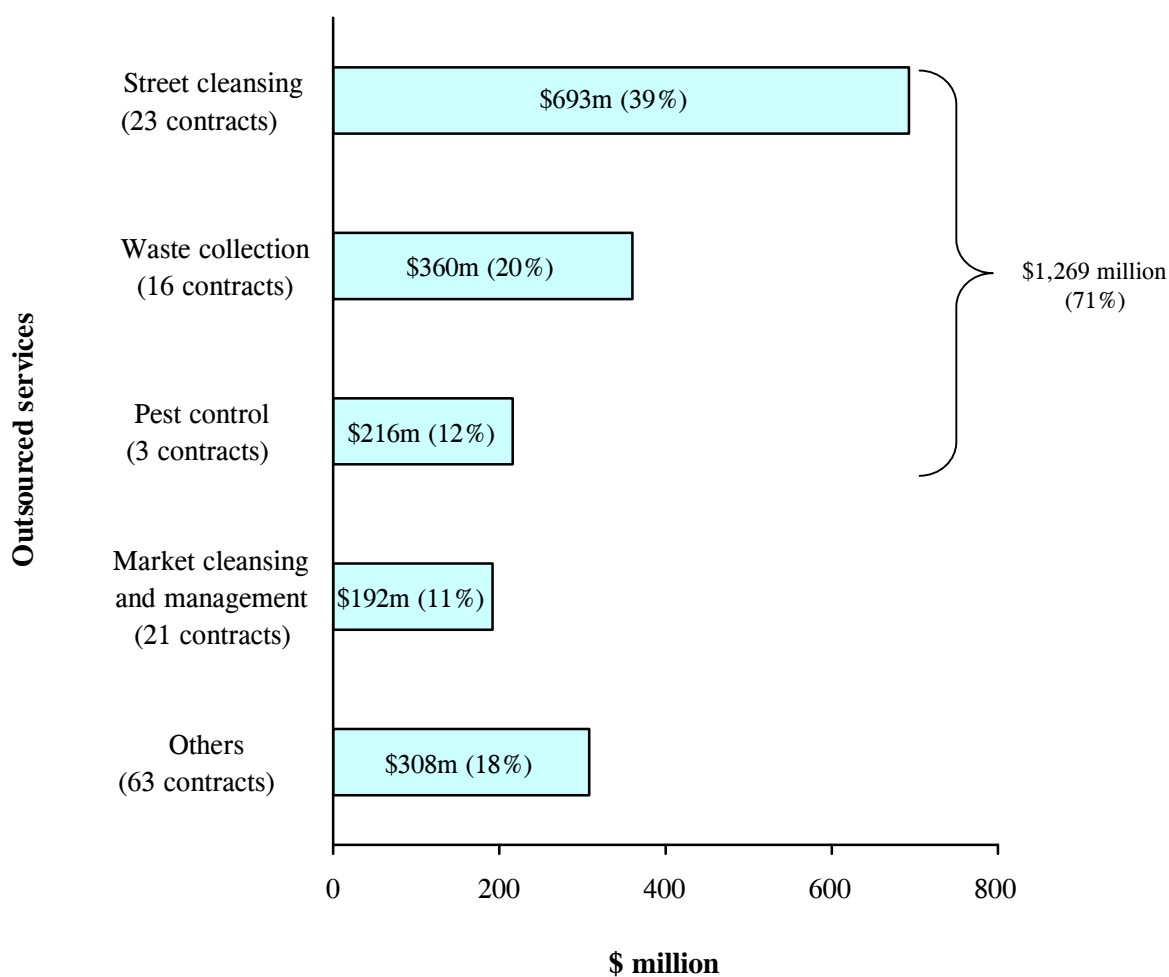
- (c) outsourcing of the management of public rental housing estates (see Chapter 10 of the Director of Audit's Report No. 49).

### Outsourcing of environmental hygiene services

1.4 The FEHD is responsible for the provision of environmental hygiene services in the territory. As at January 2007, the FEHD outsourced about 60% of its services under 126 contracts with a total contract value of some \$1,800 million (see Figure 1). These 126 contracts involved 51 contractors and over 7,000 workers.

**Figure 1**

**Environmental hygiene services outsourced by FEHD  
(1 January 2007)**



Source: FEHD records



1.5 The Administration and Development Branch (ADB) and the Environmental Hygiene Branch (EHB) of the FEHD are responsible for the outsourcing of environmental hygiene services. The main responsibilities of these two branches relating to the management of outsourcing contracts are as follows:

- (a) the Outsourcing Section of the ADB is responsible for preparing tender documents and evaluating tenders;
- (b) the Supplies Section of the ADB provides administrative support (such as inviting tenders and awarding contracts) to the Outsourcing Section;
- (c) the 19 District Environmental Hygiene Offices (DEHOs), under the three Operations Divisions of the EHB, are responsible for the day-to-day monitoring of the performance of contractors. The geographical distribution of these 19 DEHOs is shown at Appendix A; and
- (d) the Quality Assurance Section of the ADB is responsible for conducting quality assurance inspections on the services delivered by the 19 DEHOs, and handling employment-related complaints from contractors' workers.

1.6 The objective of this audit review is to examine the economy, efficiency and effectiveness of FEHD outsourcing of environmental hygiene services. The review focused on FEHD outsourcing of street cleansing services, waste collection services and pest control services (see Photographs 1 to 3), which together accounted for 71% (see Figure 1) in value of FEHD outsourcing contracts. The review has found that there is scope for improvement in the following areas:

- (a) protection of non-skilled workers engaged in outsourcing contracts (PART 2);
- (b) tender evaluation and contract administration (PART 3);
- (c) monitoring the performance of contractors (PART 4); and
- (d) performance management and contingency planning (PART 5).

**Photograph 1**

**Street cleansing services**



*Source: FEHD records*

**Photograph 2**

**Waste collection services**



*Source: FEHD records*

**Photograph 3**

**Pest control services**



*Source: FEHD records*

**Acknowledgement**

1.7 Audit would like to acknowledge with gratitude the full cooperation of the staff of the FEHD during the course of the audit review.

## **PART 2: PROTECTION OF NON-SKILLED WORKERS ENGAGED IN OUTSOURCING CONTRACTS**

2.1 This PART examines the measures taken to protect the rights and benefits of non-skilled workers (e.g. cleansing workers) engaged by contractors in outsourcing contracts of the FEHD.

### **Government measures to protect non-skilled workers**

2.2 The Government is committed to ensuring that public services, whether provided internally by departments or externally by contractors, are delivered to the highest practicable standards and in a socially responsible and ethical manner. In the past few years, the Government introduced a number of measures to protect the rights and benefits of non-skilled workers engaged in government service contracts (see Appendix B). Key measures applicable to tenders for service contracts (excluding construction service contracts) that rely heavily on the deployment of non-skilled workers include the following:

- (a) ***Mandatory requirements for tender assessment and Demerit Point System.*** Financial Circular (FC) No. 3/2004 of March 2004 stipulated:
  - (i) a mandatory requirement on past conviction records (see also item (d)(i) below); and
  - (ii) the implementation of a service-wide Demerit Point System (DPS), under which a contractor would be issued a default notice (DN) which attracted one demerit point (see also item (d)(ii) below);
- (b) ***Committed wage level.*** FC No. 5/2004 of May 2004 stipulated a mandatory requirement on wage level for non-skilled workers;
- (c) ***Standard employment contract.*** The Financial Services and the Treasury Bureau (FSTB) promulgated in April 2005 the mandatory requirement to use a standard employment contract (Note 1); and
- (d) ***Tightened measures on management of service contractors.*** In FC No. 4/2006 of April 2006, the FSTB promulgated tightened measures, including:

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**Note 1:** *The Government's standard employment contract, which requires government contractors to set out clearly the monthly wages, working hours, method of wage payment and other employment terms and conditions, was drawn up on the advice of the Labour Department.*

- (i) if a tenderer has obtained any employment-related conviction on or after 1 May 2006, his tender will not be considered for a period of five years from the date of conviction; and
- (ii) if a contractor has, over a rolling period of 36 months immediately preceding the month of the tender closing date, accumulated three demerit points (under the DPS) obtained on or after 1 May 2006, his tender will not be considered for a period of five years from the date the third demerit point is obtained.

2.3 The various FCs have also stipulated that government departments:

- (a) should satisfy themselves that the terms of the outsourcing contracts are clear and enforceable;
- (b) should be responsible for administering the contracts, including devising a monitoring mechanism to ensure that the contractors comply with the terms of the contracts;
- (c) should strengthen the monitoring measures and step up investigations into suspected/reported non-compliance cases to ensure that contractors comply with employment-related contractual requirements; and
- (d) may seek the assistance of the Labour Department (LD) when they have grounds to suspect that contractors/sub-contractors have breached the Employment Ordinance (Cap. 57) and/or when there are disputes between the contractor and his employee over the terms of an employment contract.

### **Employment-related irregularities in FEHD outsourcing contracts**

2.4 Many of FEHD outsourcing contracts provide for street cleansing, waste collection and pest control services (see Figure 1). In June 2007, there were some 7,000 non-skilled workers engaged in FEHD outsourcing contracts.

#### *Cases of employment-related irregularities in FEHD outsourcing contracts*

2.5 With the implementation of labour protection measures (see para. 2.2), more cases of employment-related irregularities relating to FEHD outsourcing contracts have been reported in recent years. Table 1 shows that:

- (a) the number of suspected cases increased from 9 in 2002-03 to 156 in 2004-05, and decreased to 100 in 2005-06 and 2006-07; and
- (b) the number of substantiated cases increased from 5 in 2002-03 to 39 in 2006-07.

**Table 1**

**Cases of employment-related irregularities in FEHD outsourcing contracts  
(2002-03 to 2006-07)**

Year	Number of suspected cases (Note 1)	Number of substantiated cases (Note 2)
2002-03	9	5
2003-04	24	5
2004-05	156	30
2005-06	100	27
2006-07	100	39

*Source: FEHD records*

*Note 1: Suspected cases mainly originated from complaints about employment-related irregularities.*

*Note 2: Substantiated cases comprised those cases which, after FEHD investigation, were rectified/mediated (with or without sanctions, e.g. issue of DNs or warning letters), or referred to law enforcement agencies for follow-up action.*

***Contracts undertaken by convicted contractors***

2.6 In a reply to a Legislative Council (LegCo) question on 10 January 2007, the Administration informed Members that, during the period May 2005 to December 2006, a total of 45 security services companies or cleansing services companies were convicted of the relevant provisions under the ordinances specified in FC No. 4/2006. Of these cases, 20 (44%) companies had their conviction records arising from government outsourcing contracts. As at January 2007, 8 of the 20 convicted companies were still undertaking 40 government outsourcing contracts. As the tenders for all these contracts were invited before May 2006, they were not subject to the tightened measures of FC No. 4/2006 (see para. 2.2(d)). Table 2 shows an analysis of the 40 government outsourcing contracts.

**Table 2**  
**Government outsourcing contracts**  
**undertaken by convicted contractors**  
**(January 2007)**

Department	Number of contracts
<b>FEHD</b>	<b>23</b>
Marine Department	7
LCSD	3
Lands Department	2
HD	1
Civil Engineering and Development Department	1
Hong Kong Police Force	1
Government Property Agency	1
Hongkong Post	1
<b>Total</b>	<b>40</b>

*Source: Reply to a LegCo question on 10 January 2007*

2.7 Of these 40 outsourcing contracts undertaken by government service contractors with conviction records as at January 2007, 23 (58%) had been awarded by the FEHD to five contractors with a total contract value of \$480 million. The majority (16 or 70%) of these FEHD contracts were still in force at the time of the audit fieldwork (July 2007), of which four would end in 2008 and one in 2009. Appendix C shows details of these 23 FEHD contracts.

***Demerit points issued to FEHD contractors***

2.8 Of a total of 24 demerit points issued service-wide under the DPS in the period April 2004 to June 2007, 21 (88%) were issued by the FEHD to nine contractors. All these demerit points, however, were issued to contractors whose tenders were invited before 1 May 2006 (i.e. the effective date for tightening up labour protection measures in accordance with FC No. 4/2006).

## Audit observations

### *Need to closely monitor employment-related irregularities in FEHD outsourcing contracts*

2.9 Comparing with 2002-03, more cases of employment-related irregularities in FEHD outsourcing contracts have been reported in recent years (see Table 1 in para. 2.5). While the increase in reported cases might partly be attributable to increasing awareness of employees' rights and FEHD enforcement work, it also showed that the problem of employment-related irregularities among FEHD contractors had remained unresolved. This was corroborated by the fact that nine FEHD contractors had been issued a total of 21 demerit points under the DPS in the period April 2004 to June 2007 (see para. 2.8).

2.10 As far as the outsourcing tenders invited by the FEHD on or after 1 May 2006 are concerned, up to July 2007, no demerit points had been issued under the DPS. **However, in view of the short time after the implementation of the tightened measures, the FEHD needs to continue monitoring closely the incidence of employment-related irregularities in its outsourcing contracts. The FEHD also needs to keep under review the effectiveness of the tightened measures in fostering good workforce management practices among its outsourcing contractors.**

### *Need to adopt a risk management approach in monitoring and enforcement work*

2.11 An outsourcing review conducted by the EU in 2005 revealed that the majority of cases of employment-related irregularities identified by the FEHD from August 2002 to June 2005 related to one contractor (Contractor A). Of the 60 employment-related DNs (Note 2) issued during the 35-month period, 38 (63%) were issued to Contractor A. The remaining 22 DNs were issued to 10 other contractors, with 5 contractors receiving one DN each, and another 5 contractors each receiving 2 to 5 DNs during the same period. While the employment-related irregularities did not appear to be widespread among FEHD contractors, Audit considers that the FEHD needs to keep a close watch on the performance of those contractors who have received more than one employment-related DN (i.e. "repeated defaulters"). **The FEHD may consider adopting a risk management approach in its labour protection enforcement work, focusing its monitoring efforts on the high-risk contractors, such as the "repeated defaulters".**

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**Note 2:** *Apart from those DNs which attract demerit points under the service-wide DPS (see para. 2.2(a)(ii)), the FEHD also issues DNs which do not attract demerit points (see para. 3.10(b) and item (c) at Appendix B).*



2.12 Another means of assessing the risks of employment-related irregularities of contractors is their past conviction records. In this regard, contractors who have employment-related conviction records need to be closely monitored. As mentioned in paragraph 2.7, as at July 2007, five contractors with conviction records were still undertaking 16 FEHD contracts. The last contract will only end by April 2009 (see Appendix C). **The FEHD needs to monitor closely the employment-related performance of such contractors. Enforcement action should be taken if they commit employment-related offences.**

*Need to share experience with other departments for continuous improvement*

2.13 Audit notes that apart from those service-wide labour protection measures introduced by the FSTB (see para. 2.2), some departments have implemented additional departmental measures that are effective in addressing the problem of employment-related irregularities among government outsourcing contractors. The requirement that contractors should pay liquidated damages on every DN issued by the FEHD (see para. 3.10(b)) is an effective measure to deal with defaulted contractors. **In order to seek continuous improvement in labour protection in outsourcing, the FEHD needs to share experience with other departments that are active in outsourcing of services involving the use of non-skilled workers.** The following are examples of good practices in other departments that may help enhance labour protection in outsourcing:

- (a) ***Contractor list management system.*** The HD has a well-established contractor list management system in place for its outsourcing of property management services. Only contractors on the approved lists may tender for HD outsourcing contracts. At the time of application for admission, a contractor should have:
  - (i) no record of employment-related convictions under the relevant ordinances;
  - (ii) no demerit points obtained under the DPS; and
  - (iii) satisfactory records of fair treatment of non-skilled workers over the past five years. This can be demonstrated by a proven system and designated personnel for dealing with the employment and deployment of non-skilled workers who are employed either directly, or by his sub-contractors.

A contractor's status on HD lists is renewable on an annual basis. At the time of renewal, he is required to submit a declaration of conviction records and demerit points received, if any. The HD uses the contractor list management system to help uphold the standard of property management services; and

- (b) *Additional mandatory requirements for tender assessment.* Apart from the service-wide mandatory requirements specified by the FSTB (see para. 2.2), the LCSD has introduced an additional mandatory requirement that no warning letter should have been received in the 12 months before the tender closing date, when assessing tenders. This provides an additional management tool for dealing with contractors with unsatisfactory employment-related practices by debarring them from tendering for new outsourcing contracts for a short period of time (12 months, as against 5 years for three demerit points obtained under the DPS — see para. 2.2(d)(ii)).

### **Audit recommendations**

2.14 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

*Need to closely monitor employment-related irregularities in FEHD outsourcing contracts*

- (a) **continue monitoring closely the incidence of employment-related irregularities in FEHD outsourcing contracts;**
- (b) **keep under review the effectiveness of the tightened labour protection measures in fostering good workforce management practices among FEHD outsourcing contractors;**

*Need to adopt a risk management approach in monitoring and enforcement work*

- (c) **consider adopting a risk management approach in the FEHD's labour protection enforcement work, focusing its efforts on monitoring the employment-related performance of the high-risk contractors; and**

*Need to share experience with other departments for continuous improvement*

- (d) **share experience with other departments, in order to explore other effective measures for improving labour protection in outsourcing.**

## Response from the Administration

2.15 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the FEHD will continue to monitor closely the employment-related performance of its contractors. In accordance with FC No. 4/2006, the FEHD debars any tenderer with convictions of employment-related offences and other relevant ordinances or with three demerit points from tendering for its contracts for five years. The marking scheme used in tender evaluation incorporates the number of employment-related DNs as an assessment criterion;
- (b) the FEHD welcomes Audit proposal to share experience with other departments; and
- (c) the FEHD's quarterly statistics show that there has been a consistent decline in the number of suspected and substantiated cases since the second quarter of 2006 (Note 3). Nevertheless, it will remain vigilant in enforcing measures to guard against labour exploitation.

2.16 The **Commissioner for Labour** has said that:

- (a) the LD takes a serious view on the irregularities relating to the employment of non-skilled workers by government service contractors. It will continue to conduct vigorous workplace inspections to ensure contractors' compliance with the Employment Ordinance and the Employees' Compensation Ordinance (Cap. 282). If procuring departments detect any suspected cases of non-compliance with the Employment Ordinance and/or failure to comply with the compulsory insurance requirements under the Employees' Compensation Ordinance, they should refer them to the LD for investigation and follow-up actions; and
- (b) from time to time, the LD organises briefings and seminars for responsible officers of procuring departments to familiarise them with the provisions of the Employment Ordinance and the standard employment contracts, and discusses with them possible measures to curb exploitative labour practices of unscrupulous contractors.

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**Note 3:** *From the second quarter of 2006 to the second quarter of 2007, the number of suspected and substantiated cases declined from 37 to 12, and from 22 to 5 respectively.*

## **Employees' compensation insurance**

2.17 Under the Employees' Compensation Ordinance, an employer is required to take out an insurance policy to cover his employees for their injuries or deaths in accidents arising out of and in the course of employment. An employer who fails to comply with the law commits an offence and is liable on conviction to a maximum fine of \$100,000 and to imprisonment for two years.

2.18 According to the FEHD Operational Manual for Cleansing Services, which covers matters relating to both cleansing and waste collection services, a DEHO (see para. 1.5(c)) needs to conduct checks to ensure that a contractor providing the aforesaid services has a valid employees' compensation insurance policy. Audit noted that the three DEHOs visited by Audit (see para. 4.6) had not performed such checks. In response to enquiries, the DEHOs informed Audit in early 2007 that, as there was no contractual requirement for the contractors to furnish them with copies of employees' compensation insurance policies, they might be unwilling to do so.

## **Audit observations**

2.19 Audit considers that the DEHOs need to conduct checks to ensure that the contractors have valid employees' compensation insurance policies. This not only fulfils the requirement set out in the Operation Manual for Cleansing Services, but also ensures that all employees hired by contractors of government outsourcing contracts have insurance cover. The FEHD needs to require its contractors to furnish it with copies of employees' compensation insurance policies, and ensure that the policies remain valid throughout the contract periods.

2.20 Regarding pest control services, the FEHD has not laid down any requirement for the checking of valid employees' compensation insurance policies. The FEHD needs to ensure that all its outsourcing contractors have such insurance policies.

## **Audit recommendations**

2.21 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **require all FEHD outsourcing contractors to furnish it with copies of employees' compensation insurance policies; and**
- (b) **ensure that the employees' compensation insurance policies remain valid throughout the contract periods.**

## **Response from the Administration**

2.22 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the FEHD will consider incorporating an explicit provision into service contracts to require contractors to furnish copies of employees' compensation insurance policies for checking and retention; and
- (b) the FEHD has reminded all District Environmental Hygiene Superintendents of the importance of checking the employees' compensation insurance policies. DEHO staff are already required to obtain employees' compensation insurance policies from existing contractors for checking, keep a copy of such policies on file, and obtain new policies for checking upon expiry of existing ones.

## **PART 3: TENDER EVALUATION AND CONTRACT ADMINISTRATION**

3.1 This PART examines the FEHD's evaluation of tenders and administration of contracts for the provision of environmental hygiene services.

### **Tender evaluation process**

3.2 The FEHD uses open tendering for the outsourcing of environmental hygiene services. To bid for an FEHD outsourcing contract, a tenderer has to submit a tender in two envelopes, one containing the technical information, and the other the price information.

3.3 *Mandatory requirements.* The FEHD first ascertains whether the tenderer meets the following mandatory requirements:

- (a) a tenderer should not have been convicted by a court, within a designated period of time, for certain employment-related offences;
- (b) a tenderer should not have accumulated three demerit points under the DPS; and
- (c) in the case of input-based tenders (see para. 3.48(a)), a tenderer has to meet certain key tender specifications, such as the minimum number of workers and vehicles to be provided for the outsourcing services.

3.4 If these mandatory requirements are met, the FEHD assesses the technical and price information of the tender to arrive at a technical score and a price score (carrying weightings of 30% and 70% respectively). The FEHD recommends the tender that has attained the highest combined score to the relevant Government tender board for acceptance.

3.5 *Marking schemes for technical assessment.* Although the technical assessment carries a weighting of only 30%, it plays an important part in the selection of the successful tenderer because the tender prices quoted by tenderers are usually very competitive. To cater for the needs of different types of environmental hygiene services, the FEHD uses different marking schemes for the technical assessment of these tenders, though the marking schemes are largely the same. For example, the marking scheme for street cleansing services has 12 assessment criteria (see Appendix D).

3.6 A flowchart showing the major steps of the FEHD's tender evaluation process is given at Appendix E.

## Review of the systems for tender evaluation and contract administration

3.7 To ascertain the adequacy of FEHD tender evaluation and contract administration, Audit selected for review a sample of 11 outsourcing contracts. These contracts were still in force at the time of the commencement of the audit fieldwork (February 2007). The sample included eight outsourcing contracts for street cleansing services (including an “outcome-based” contract — see para. 3.48(b)), two contracts for waste collection services, and one contract for pest control services. The total contract value of these 11 contracts amounted to \$600 million, representing 33% of the value (some \$1,800 million) of all outsourcing contracts for environmental hygiene services as at 1 February 2007.

3.8 Audit found that, in general, FEHD systems and procedures for tender evaluation and administration of outsourcing contracts were operating satisfactorily. The review has, however, highlighted a number of areas where further improvements can be made, including:

- (a) evaluation of past performance of tenderers (see paras. 3.9 to 3.18);
- (b) assessing working hours of drivers in tender evaluation (see paras. 3.19 to 3.25);
- (c) financial vetting of tenderers (see paras. 3.26 to 3.34);
- (d) contractors’ obligations before commencement of contracts (see paras. 3.35 to 3.41);
- (e) reliance on dominant contractors (see paras. 3.42 to 3.47); and
- (f) use of outcome-based contracts (see paras. 3.48 to 3.52).

## Evaluation of past performance of tenderers

3.9 The FEHD considers it important to assess the past performance of tenderers in evaluating tenders. Of the 12 assessment criteria in the marking scheme for tender evaluation (see Appendix D), 2 relate to tenderers’ past performance, with a total weighting of 28% (i.e. 28 marks out of a total of 100 marks). The criteria for assessing past performance are:

- (a) “record of compliance” (see item 8 at Appendix D). This assesses a tenderer’s past performance on **employment-related** matters and a maximum of 13 marks (out of a total of 100 marks) can be awarded; and

- (b) “record of past performance” (see item 10 at Appendix D). This assesses a tenderer’s past performance on **non-employment-related** matters and a maximum of 15 marks can be awarded.

These assessments cover the performance of tenderers over a period of 36 months before the tender closing date, and are included in all marking schemes of the FEHD.

*Existing or former contractors of the FEHD*

3.10 For tenderers that are either existing or former contractors, the FEHD takes into account whether they have breached any contract conditions when undertaking the contracts. If a contractor has breached the contract conditions, he may be subject to one or more of the following regulatory actions, depending on the seriousness of the breaches:

- (a) a verbal warning is given;
- (b) a DN is issued, requiring the contractor to pay liquidated damages at rates determined by the FEHD. A DN may be issued:
  - (i) for employment-related defaults, including:
    - those which attract demerit points under the DPS (e.g. wages not paid in accordance with the agreed wage levels); and
    - those which do not attract demerit points under the DPS (e.g. workers working outside the place of work stipulated in the standard employment contract); and
  - (ii) for non-employment-related defaults, including:
    - behavioural defaults (e.g. workers not wearing uniform);
    - performance defaults (e.g. contractor unable to meet the required cleansing standards); and
    - blatant defaults (e.g. absence of workers without permission); and
- (c) a warning letter is issued, with the consequence that the contract may be terminated if the breaches are not rectified within a specified time.

3.11 For employment-related matters, the tenderers’ past performance is assessed based on the service-wide requirements promulgated by the FSTB (see para. 2.2).



3.12 For non-employment-related matters, the FEHD assesses a tenderer's past performance based on two factors:

- (a) the "overall conclusion" of the Monthly Assessment Reports submitted by DEHOs responsible for day-to-day monitoring of the performance of the contractors; and
- (b) the number of DNs for non-employment-related defaults issued to the tenderer (as contractor) when undertaking FEHD contracts. Scores are given to the tenderer by benchmarking the number of DNs issued to him (as contractor), based on a "norm-referenced" method (Note 4).

Depending on the "overall conclusion" and the scores given in the benchmarking exercise, a maximum of 15 marks will be awarded to each tenderer under the marking scheme.

*New tenderers that have not undertaken any FEHD contracts*

3.13 For new tenderers without previous FEHD contracts, the FEHD requires them to furnish in the tender document the names and telephone numbers of referees for assessing their past experience and performance. The FEHD phones the referees to obtain their views. Though not required by the FEHD, tenderers sometimes voluntarily submit reference letters from their referees. On Audit's enquiries in September 2007, the FEHD advised that it did not rely on such reference letters submitted by the tenderers.

**Audit observations**

*Existing or former contractors of the FEHD*

3.14 As regards the FEHD's assessment of past performance of existing or former contractors, Audit has found the following areas where improvements can be made:

*"Overall conclusion" of the Monthly Assessment Report*

- (a) the overall conclusion in the Monthly Assessment Report (see para. 3.12(a)) has only two classifications (i.e. "satisfactory" or "unsatisfactory"). Audit notes that a satisfactory overall conclusion has always been given in all such reports. It appears that the assessment is made by the DEHOs on a judgmental basis. The FEHD has not issued any guidelines to help the DEHOs make this

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**Note 4:** *The "norm-referenced" method evaluates the performance of a tenderer with only that of other tenderers. For such an evaluation, there is no predetermined level of acceptable performance.*

assessment. There are also no guidelines specifying how a case should be dealt with where the overall conclusion is “unsatisfactory” (see also paras. 4.32 and 4.33); and

***Benchmarking based on the “norm-referenced” method***

- (b) before March 2007, the “norm-referenced” method used in the benchmarking exercise (see para. 3.12(b)) only compared **tenderers’** relative performance (Note 5). In March 2007 (at the time of audit fieldwork), the FEHD revised the “norm-referenced” method. Under the revised method, a set of indicative performance benchmarks based on the performance of **all FEHD contractors** has been developed for tender evaluation purpose. The revised method appears to be an improvement. **In view of the fact that it has only been newly introduced, the FEHD needs to keep under review the use of the revised method in benchmarking the past performance of tenderers and fine-tune it in the light of experience.**

***New tenderers that have not undertaken any FEHD contracts***

3.15 Of the 11 contracts reviewed by Audit, three related to new tenderers that had not undertaken any FEHD contract before. In all these three cases, the successful tenderers were given full marks for their past performance, and were awarded the contracts. Audit examination of the three cases showed that:

- (a) in two cases involving the same tenderer, Audit could not find any evidence indicating that the FEHD had made enquiries with the referees about his performance. In these two cases, four reference letters were provided by the tenderer in each case. The reference letters contained only general comments that the tenderer’s quality of services was satisfactory and recommended the tenderer to others; and
- (b) in the remaining case, the tenderer provided a list of 16 referees. The FEHD informed Audit that it had made telephone enquiries with the referees, but the information obtained had not been documented.

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**Note 5:** *Under the “norm-referenced” method before March 2007, if all tenderers’ performance records (when undertaking FEHD contracts) were less than satisfactory (e.g. all had been issued a large number of DNs), the method would still award high marks to some of the non-performing contractors.*

3.16 Despite the lack of supporting documentation of references obtained and the generality of the reference letters, these two tenderers were awarded full marks for their past performance. Compared with tenderers who have undertaken FEHD contracts, it appears much easier for new tenderers to obtain full marks for their past performance in tender evaluation, giving them an edge over the existing or former contractors of the FEHD. **The FEHD needs to review its current practices of assessing the past performance of new tenderers and issue appropriate guidelines.** For example, the FEHD may consider using a standard questionnaire for seeking comprehensive information about tenderers' past performance directly from their referees.

### **Audit recommendations**

3.17 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

#### *Existing or former contractors of the FEHD*

- (a) **issue guidelines to help the DEHOs assess the overall conclusion on the contractors' performance in the Monthly Assessment Reports (see also para. 4.36(a));**
- (b) **keep under review the use of the revised "norm-referenced" method in benchmarking the past performance of tenderers, and fine-tune it in the light of experience; and**

#### *New tenderers that have not undertaken any FEHD contracts*

- (c) **review the FEHD's current practices of assessing the past performance of new tenderers and issue appropriate guidelines.**

### **Response from the Administration**

3.18 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that the FEHD:

- (a) will refine the bandings of contractors' performance in the Monthly Assessment Reports, and include corresponding follow-up actions for implementation at the district level;
- (b) is encouraged by the audit comment that the revised method is an improvement (see para. 3.14(b)) and will keep it under review; and

- (c) will review the current practices of assessing the past performance of new tenderers and identify room for improvement. The FEHD welcomes Audit's suggestion to use a standard questionnaire and will follow up accordingly.

### **Assessing working hours of drivers in tender evaluation**

3.19 To safeguard the benefits of non-skilled workers, the FEHD has encouraged tenderers for environmental hygiene services to set maximum working hours of not more than 10 hours a day (after deduction of break periods) for their workers. If a tenderer has set the daily maximum working hours at not more than 10 hours, he will be awarded full marks in the assessment criterion of "daily maximum working hours" in the tender evaluation marking scheme (see Appendix D). If more than 10 hours have been set, a tenderer will have no marks. However, this arrangement does not apply to skilled workers.

3.20 In addition to non-skilled workers, FEHD contractors also hire skilled workers, such as drivers, for the provision of environmental hygiene services. In this review, Audit examined the records of working hours of drivers (for November and December 2006) employed under the street cleansing and waste collection contracts of the three DEHOs visited (see para. 4.6). In these contracts, 68 drivers (mainly drivers of waste collection vehicles) were employed.

3.21 Audit analysed the working hours of these 68 drivers in these two months. Although the recommended maximum of 10 hours a day (see para. 3.19) does not apply to drivers, it is used in this analysis as a general guide for their working hours. Audit found that 28 (41%) of the 68 drivers had over 10 working hours a day during these two months (see Table 3). In particular, three drivers had 19.5 working hours a day on many occasions (see Table 4). Table 5 shows a breakdown of the 19.5 working hours of a driver (Driver A) on a working day in December 2006.

Table 3

**Drivers who had over 10 working hours per day  
(November and December 2006)**

Number of days (with over 10 working hours)	Number of drivers	Working hours per day (Note)	
		Range	Average
1 to 10	6	10.5 to 14.0	13.5
11 to 20	2	11.0 to 15.5	14.6
21 to 30	6	14.0 to 16.0	15.2
31 to 40	4	10.5 to 15.0	13.1
41 to 50	5	10.5 to 19.5	14.3
51 to 60	5	14.0 to 19.5	15.5
<b>Overall</b>	<b>28</b>	<b>10.5 to 19.5</b>	<b>14.6</b>

*Source: Audit analysis of FEHD records*

*Note: The working hours per day do not include break periods (e.g. lunch break).*

Table 4

**Drivers who had 19.5 working hours a day  
(November and December 2006)**

Driver	Number of days
A	51
B	50
C	21

*Source: FEHD records*

Table 5

**Breakdown of the 19.5 working hours of Driver A  
(on a working day in December 2006)**

<b>Work</b>	<b>Time</b>	<b>Number of working hours</b>
Overtime work	5:00 a.m. to 6:30 a.m.	1.5
Day shift	6:30 a.m. to 5:00 p.m.	9.5 (Note)
Night shift	5:00 p.m. to 11:00 p.m.	6.0
Overtime work	11:00 p.m. to 1:30 a.m.	2.5
<b>Total</b>		<b>19.5</b>

*Source: FEHD records*

*Note: After deducting one-hour lunch break, there were 9.5 working hours.*

### **Audit observations**

3.22 It was quite common that the drivers of waste collection vehicles of FEHD contractors had long working hours (over 10 hours a day). This practice is not conducive to promoting occupational health and safety at work. Audit is also concerned that the long working hours could cause driver fatigue, which will pose a risk to road users.

### **Audit recommendation**

3.23 **Audit has recommended that the Director of Food and Environmental Hygiene should consider taking into account the daily working hours of drivers in tender evaluation.**

## Response from the Administration

3.24 The **Director of Food and Environmental Hygiene** agrees with the audit recommendation. He has said that:

- (a) as part of the contract management process, the FEHD conducts regular identity matching on the contractors' employees. Although drivers are currently not regarded as non-skilled workers, upon detection of long working hours, i.e. more than the contractors' general commitment of allowable daily maximum working hours (10 hours) for non-skilled workers, the FEHD issues letters to the contractors concerned advising them that prolonged working hours for drivers may affect the safety of staff and other road users. In the past four years, the FEHD issued 25 such letters; and
- (b) the FEHD shares Audit's concerns (see para. 3.22). It will seek advice and guidance from the Labour and Welfare Bureau.

3.25 The **Commissioner for Labour** has said that excessively long working hours are not conducive to the health of employees concerned. However, there is no prescriptive standard on the optimum number of working hours. Employers are encouraged to take into account the job nature, workload, working conditions and other relevant factors in determining the work schedules in consultation with their employees.

## Financial vetting of tenderers

3.26 In order to ensure that contractors providing services to the Government are, in addition to their technical capability, financially capable of fulfilling the contract requirements, the Stores and Procurement Regulations (SPRs) require that a tenderer, which is being considered for the award of a service contract of value exceeding \$5 million, should be subject to financial vetting.

3.27 To supplement the SPRs, the Financial Vetting Guidelines (for Service Contracts) issued by the Treasury provide guidance on the conduct of financial vetting. For a tenderer to pass the financial vetting, he must be able to satisfy the requirements of three critical financial criteria, i.e. profitability, working capital, and employed capital.

3.28 If a tenderer has passed the financial vetting, he is required to pay a deposit equal to 2% of the contract value. If a tenderer has failed the vetting, the deposit will be raised to 5%. The deposit may be settled, for example, by a bank/insurance company guarantee or by making a payment to the Government.

## **Audit observations**

3.29 Audit examined the financial vetting conducted for the 11 contracts selected for review. Audit noted that in only one contract, the tenderer had passed all three critical financial criteria after further capital injection. In the other ten contracts, the tenderers failed the financial vetting. These tenderers were required to deposit a bank/insurance company guarantee of 5% of the contract value, and were awarded the contracts.

### ***Need for periodic financial vetting of contractors for long-term contracts***

3.30 Audit noted that for the outsourcing of environmental hygiene services, the FEHD conducted financial vetting of the tenderers only prior to the award of contracts. There is no requirement for periodic financial vetting during the contract period.

3.31 As some of FEHD outsourcing contracts last for a few years (e.g. five years for waste collection contracts), the financial positions of the contractors change over time and they may become financially incapable of fulfilling the contracts. **To address this risk, for long-term outsourcing contracts, the FEHD needs to consider including a clause in the contract whereby a contractor will be subject to periodic financial vetting.** Based on the results of the periodic financial vetting, the FEHD may need to take appropriate actions (e.g. requesting an additional bank guarantee, or terminating the contract).

### ***Need for proper contingency planning***

3.32 Another risk that needs to be addressed is the possibility of service disruptions in the event of business failure of contractors, given that finding suitable replacement service providers within a short time may be difficult. To address this risk, Audit has recommended that the FEHD needs to devise a proper contingency plan for its outsourcing of environmental hygiene services (see para. 5.23(b)).

## **Audit recommendations**

3.33 **Audit has recommended that the Director of Food and Environmental Hygiene should, for long-term outsourcing contracts:**

- (a) **consider including a clause in contracts whereby a contractor will be subject to periodic financial vetting; and**
- (b) **based on the results of the periodic financial vetting, take appropriate actions if warranted.**



## **Response from the Administration**

3.34 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that the FEHD will explore the merits of mid-term financial assessment and take appropriate actions where necessary.

## **Contractors' obligations before commencement of contracts**

3.35 Upon acceptance of a tender by the relevant Government tender board, the FEHD issues a letter of acceptance (LOA) to the successful tenderer. After the implementation of FC No. 4/2006 in May 2006, in order to meet the requirement that the successful tenderer should not have any convictions or have accumulated up to three demerit points under the DPS (see para. 2.2(d)) between the tender closing date and the date of the LOA, the FEHD only issues a conditional LOA. After the FEHD has confirmed that the tenderer fulfils the requirement, a formal LOA, which creates a binding contract, will be issued to the successful tenderer.

3.36 The conditional LOA requires the successful tenderer to:

- (a) provide the contract deposit (e.g. in the form of bank/insurance company guarantees — see para. 3.28) within 14 days from the date of the LOA; and
- (b) submit a copy of the public liability insurance policy (PLIP) in the joint names of the Government and the tenderer (as contractor). In accordance with the General Conditions of Contract (which are included in the tender documents), a tenderer should submit a copy of the PLIP together with a copy of the insurance premium receipt within 14 days upon notification of award of contract.

## **Audit observations**

3.37 For the 11 contracts selected for review, Audit found that in all these contracts, the tenderers failed to submit evidence of settlement of contract deposits and the PLIPs within 14 days (i.e. 2 weeks) from the date of the LOA. Table 6 shows the details.

**Table 6**  
**Time span for 11 tenderers to submit documentary evidence**  
**(from the date of LOA)**

Time span (Weeks)	Number of tenderers	
	Submission of contract deposits	Submission of PLIP
0 to 2	—	—
>2 to 4	1	—
>4 to 6	—	2
>6 to 12	6	3
>12 to 22	4	3
>22	—	3 (Note)
<b>Total</b>	<b>11</b>	<b>11</b>

*Source: Audit analysis of FEHD records*

*Note: The longest time span was about 37 weeks from the date of LOA.*

3.38 A further audit analysis of the 11 contracts revealed that:

***Submission of evidence of contract deposits after commencement of contracts***

- (a) in 9 contracts, the tenderers submitted the bank/insurance company guarantees only 2.3 to 12 weeks after commencement of contracts;
- (b) in 7 of the 9 contracts mentioned in (a) above, the bank/insurance company guarantees were dated after the contract commencement dates. In other words, there were time gaps in which the Government's interest was not adequately safeguarded, ranging from one to 11 weeks;

***Submission of PLIPs after commencement of contracts***

- (c) in 9 contracts, the tenderers submitted valid PLIPs only 2.3 to 35 weeks after commencement of contracts; and
- (d) in 5 of the 9 contracts mentioned in (c) above, the PLIPs taken out by the tenderers were not in the joint names of the Government and the contractor (see para. 3.36(b)). The FEHD requested the tenderers to rectify the situation. For the periods (up to 33 weeks) before the revised PLIPs (in the joint names of the Government and the contractor) were received, the Government could have been uninsured.

3.39 **Audit considers that the contractors' delays in the submission of the bank/insurance company guarantees and the PLIPs are less than satisfactory. The FEHD needs to take measures to minimise such risks.**

**Audit recommendations**

3.40 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **take measures to ensure that the contract deposits are settled and the PLIPs are taken out in a timely manner; and**
- (b) **remind tenderers the requirement of taking out PLIPs in the joint names of the Government and the contractor.**

**Response from the Administration**

3.41 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the FEHD shares Audit's concerns. It has already put in place measures to bring up contracts well before expiry for tender arrangements so as to allow sufficient processing time before contract commencement. However, unforeseen factors (such as introduction of new policies and guidelines) may come into play and delay contract award, leaving insufficient time for checking and completion of formalities prior to contract commencement. The FEHD will try its best to ensure that the contract deposits are settled and the PLIPs are taken out in a timely manner; and

- (b) it is already the practice of the FEHD to remind a successful tenderer in the LOA to take out PLIPs in the joint names of the Government and the contractor. It will continue to do so.

### Reliance on dominant contractors

3.42 Of the 11 contracts selected for audit review, one related to the outsourcing of pest control services. In this case, the 19 districts were bundled into seven regions, and a single tender covering all these regions was invited. A tenderer bid for and was awarded the contract for the provision of pest control services for the period 1 April 2006 to 31 March 2007. In the event, a one-year contract in the sum of \$205 million was awarded to him, who became the dominant contractor (Contractor B — Note 6). In just about six-month time, some 130 non-employment-related DNs had already been issued to this contractor (Note 7).

3.43 In late 2006, the FEHD invited tenders for the provision of pest control services for the financial years 2007-08 and 2008-09. In the tendering exercise, the 19 districts were bundled into five regions and separate tenders were invited for each region. The contracts were awarded to two contractors (Contractors C and D). Contractor C would take four regions (15 districts), and Contractor D one region (4 districts). Contractor C was hence dominating the provision of pest control services (Note 8).

### Audit observations

3.44 Reliance on a dominant contractor for the provision of pest control services poses risks to the FEHD. If the dominant contractor fails to operate effectively (e.g. going bankrupt), the pest control services would be severely affected, posing a threat to environmental hygiene. **In order to safeguard public interest, the FEHD may consider limiting the number of contracts each tenderer may be awarded for the provision of environmental hygiene services (including pest control services).**

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**Note 6:** *The value of the contract awarded to Contractor B amounted to \$205 million, accounting for 95% of the total value of all pest control contracts. Two smaller contracts (with a total contract value of \$11 million) ending in November 2007 and April 2008 respectively were awarded to another contractor for the provision of mosquito control in streams.*

**Note 7:** *For the whole contract period 1 April 2006 to 31 March 2007, Contractor B was given 676 verbal warnings, 212 DNs and 131 warning letters.*

**Note 8:** *Instead of awarding one contract, the FEHD awarded four contracts to Contractor C, covering four regions. This allowed the FEHD the flexibility of individually terminating the contracts in case of unsatisfactory performance.*

3.45 The dominant position of some of the outsourcing contractors in the provision of environmental hygiene services has also highlighted the need for the FEHD to devise a proper contingency plan to deal with large-scale service disruptions (see paras. 5.19 and 5.22).

### **Audit recommendations**

3.46 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **monitor closely the work of the dominant contractors providing environmental hygiene services; and**
- (b) **for the provision of environmental hygiene services (e.g. pest control services), examine the feasibility of limiting the number of outsourcing contracts that may be awarded to a tenderer.**

### **Response from the Administration**

3.47 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the FEHD will remain vigilant in monitoring the performance of the contractors throughout the contract period;
- (b) the FEHD will examine the feasibility of limiting the number of contracts to be awarded to a tenderer (see para. 3.46(b)), and seek legal advice as necessary to ensure that any deviation from the World Trade Organisation Agreement on Government Procurement (Note 9) will be fully justified; and
- (c) the invitation of five separate tenders for each of the regions (see para. 3.43) instead of a single tender covering all the regions, reflected the FEHD's conscious decision to avoid awarding too many contracts to one contractor. However, as a result of open tender, one contractor won the bid for four regions. Mindful of the risk of contract failure, the FEHD has reserved in-house capability to provide essential services for a short period of time, pending hire of services from the market through direct purchase or a new tender.

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**Note 9:** *In May 1997, Hong Kong acceded to this Agreement, the objective of which is to provide for open and fair competition amongst domestic and foreign suppliers and service providers.*

## Use of outcome-based contracts

3.48 The FEHD uses two types of contracts for the outsourcing of its environmental hygiene services:

- (a) **Input-based contracts.** For input-based contracts, contractor inputs (e.g. the number of staff and vehicles) and procedures (e.g. the frequency of street sweeping) are clearly specified by the FEHD. A tenderer may submit a plan above, but not below, the stipulated requirements, otherwise his tender will be disqualified; and
- (b) **Outcome-based contracts.** There are two kinds of outcome-based contracts:
  - (i) **Full outcome-based contracts.** For these contracts, only the desired outcomes are specified by the FEHD. A tenderer is free to set the inputs and procedures to achieve the specified outcomes; and
  - (ii) **Medium outcome-based contracts.** These contracts are similar to those mentioned in (i) above, except that some of the inputs and procedures are specified by the FEHD to avoid misunderstanding.

## Audit observations

3.49 It is generally accepted that outcome-based contracts have advantages over input-based contracts. The former allows greater flexibility for contractors to devise innovative approaches and to achieve the outcomes in a cost-effective manner.

3.50 Audit notes that the FEHD has started using some outcome-based contracts with satisfactory results. For example, in three outcome-based street cleansing contracts, in recent years an average cost saving of 20% or \$18.5 million was achieved. **However, despite the potential benefits, the FEHD has so far used outcome-based contracts only on a few occasions in the outsourcing of environmental hygiene services.** As at 1 February 2007, of a total of 125 outsourcing contracts amounting to some \$1,800 million, only 5 (4%) contracts amounting to \$110 million (6%) were outcome-based.

### **Audit recommendations**

3.51 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **explore using more outcome-based contracts in the FEHD's outsourcing of environmental hygiene services; and**
- (b) **monitor the cost savings and other benefits of using outcome-based contracts.**

### **Response from the Administration**

3.52 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that up to early September 2007, the FEHD awarded six outcome-based contracts. The FEHD will continue in this direction where appropriate. However, not all FEHD contracts could be purely outcome-based. For instance, contracts involving toilet attendant and security guard services will inevitably have input-based elements.

## **PART 4: MONITORING THE PERFORMANCE OF CONTRACTORS**

4.1 This PART examines the adequacy of FEHD monitoring of the performance of outsourcing contractors.

### **Background**

4.2 The environmental hygiene services provided by outsourcing contractors mainly include the following:

- (a) *Street cleansing services.* These include the provision of street sweeping and washing, toilet attendant services, litter container emptying and cleansing, and refuse collection point attendant services;
- (b) *Waste collection services.* These include the collection of waste from scheduled waste collection points, and the disposal of all collected waste at the specified disposal sites; and
- (c) *Pest control services.* These include mosquito, rodent and other pest control services.

### *Staffing structure of the DEHOs*

4.3 The FEHD delivers environmental hygiene services through its 19 DEHOs. Each DEHO is headed by a District Environmental Hygiene Superintendent, who is supported by a number of:

- (a) Health Inspectorate Officers (i.e. Health Inspectors (HIs), Senior HIs and Chief HIs);
- (b) Senior Foremen (SF); and
- (c) Environmental Nuisance Investigators (ENIs).

SF and ENIs, reporting to the Health Inspectorate Officers, are responsible for the day-to-day on-site monitoring of contractors' performance.

### *Operational Manuals*

4.4 The following manuals set out guidelines and procedures for FEHD staff to monitor the performance of contractors:



- (a) Operational Manual for Cleansing Services;
- (b) Operational Manual for Management of Public Cleansing Contracts (which covers the management of street cleansing contracts and waste collection contracts); and
- (c) Operational Manual for Management of Pest Control Contracts.

The FEHD regularly revises and updates these manuals to improve the guidelines and procedures.

### **Review of the monitoring of environmental hygiene services provided by contractors**

4.5 Though a large part of the environmental hygiene services has been outsourced to contractors, the responsibility for effective service provision still rests with the FEHD. It is therefore important that the FEHD should monitor effectively the environmental hygiene services provided by its outsourcing contractors.

4.6 *Audit visits to three DEHOs.* Between February and May 2007, Audit visited three major DEHOs on Hong Kong Island, in Kowloon and the New Territories (DEHOs I, II and III respectively), to ascertain the adequacy of FEHD work in monitoring the outsourced street cleansing services, waste collection services, and pest control services.

4.7 The Operational Manuals (see para. 4.4) provide guidelines and procedures for monitoring contractors' performance. Audit noted that some of the guidelines/procedures were not always followed by the DEHOs. The practices of different DEHOs also varied. Audit has found that there are a number of areas in which improvement can be made, in order to enhance the efficiency and effectiveness of monitoring the outsourcing contractors' performance, including:

- (a) day-to-day monitoring (see paras. 4.8 to 4.20);
- (b) site inspections conducted by supervisors (see paras. 4.21 to 4.25);
- (c) issue of DNs (see paras. 4.26 to 4.30);
- (d) assessing the performance of contractors (see paras. 4.31 to 4.37);
- (e) sharing of information on the performance of contractors (see paras. 4.38 to 4.41); and
- (f) late-night bagged refuse collection service (see paras. 4.42 to 4.50).

## **Day-to-day monitoring**

### *Street cleansing services*

4.8 The day-to-day monitoring of street cleansing services in a district is undertaken by SF of the responsible DEHO. Each Senior Foreman is assigned a designated area for inspection work. A contractor is required to provide the DEHO with details of his updated work programme (e.g. the streets to be swept and washed) and the names of the workers of each designated area, using two specially designed forms (i.e. “Inspection Record on the Work Plan of the Contractor”, and “Inspection Record on Daily Attendance of Contractor Staff”). The Senior Foreman makes use of the Inspection Records submitted by the contractor and conducts daily inspection work in his designated area, including:

- (a) carrying out site inspections at random to confirm whether services (such as cleanliness of the streets and manpower requirements) are delivered in accordance with the work programme;
- (b) conducting random checks on the attendance records of the contractor’s workers;
- (c) checking the workers’ proof of identity to prevent employment of illegal workers;
- (d) recording details of the checking work in the Inspection Records; and
- (e) signing and submitting the Inspection Records to the HI for review.

4.9 Each Senior Foreman is provided with a Personal Digital Assistant, into which is stored a proforma known as the Daily Inspection Report (DIR). The DIR is a checklist covering various aspects of a contractor’s performance, e.g. “cleanliness of streets, lanes and sitting-out areas/open space”, “cleanliness of litter container”, and “staff uniform, efficiency and conduct”. The SF need to mark on the checklist to indicate whether the services provided in their designated areas are satisfactory. They can upload the completed checklists (through the computers located near their places of inspection) to the Contract Management Computer System (CMCS), which keeps management information on the administration of contracts.

4.10 The contractors’ service hours are normally from 6:30 a.m. to 11:30 p.m. The SF work in shifts that match the contractors’ service hours. In each of the three DEHOs visited by Audit (see para. 4.6), 14 to 22 SF were deployed.

*Waste collection services*

4.11 The monitoring procedures for waste collection services are generally the same as those for street cleansing services. The contractors' service hours are normally from 7:00 a.m. to 11:00 p.m. The DEHOs each deploy two SF to monitor the services.

*Pest control services*

4.12 The monitoring procedures for pest control services are generally the same as those for street cleansing services. The contractors' service hours are normally from 8:00 a.m. to 5:00 p.m. The FEHD front-line staff are the ENIs (instead of the SF). The DEHOs each deploy two ENIs to monitor the services. The ENIs report directly to a Senior HI.

**Audit observations**

*Countersigning of Inspection Records*

4.13 According to the Operational Manuals:

- (a) an HI is required to examine and countersign the Inspection Records of the street cleansing services and waste collection services; and
- (b) a Senior HI is required to examine and countersign the Inspection Records of the pest control services.

4.14 In this review, Audit examined a random sample of the records of 60 days, from the Inspection Records for the period January 2006 to January 2007, in the three DEHOs selected (see para. 4.6). Audit found that, with the exception of some "Inspection Records on Daily Attendance of Contractor Staff" of DEHO III, the HIs or the Senior HIs did not countersign the Inspection Records in accordance with the Operational Manuals. **As most of the Inspection Records were not countersigned as required by the Operational Manuals, evidence that the HIs/Senior HIs had examined such records was lacking.**

*Checking of the DIRs*

4.15 According to the Operational Manuals, the HIs and the Senior HIs are required to conduct online checking of the DIRs uploaded to the CMCS, in accordance with the extent and frequencies specified.

4.16 However, at present the CMCS does not allow the HIs and the Senior HIs to input remarks indicating that they have examined the DIRs. Audit therefore could not verify whether the DIRs had been checked by the HIs and Senior HIs, and the extent and frequencies of such checking. **The FEHD needs to consider enhancing the CMCS to facilitate documentation of checking of the DIRs by the Health Inspectorate Officers.**

*Scope and extent of daily inspections*

4.17 Apart from some specific inspection requirements for the waste collection services (e.g. a Senior Foreman should follow the route of a waste collection vehicle once a month), the FEHD has not laid down guidelines for the SF and the ENIs to conduct daily inspections in their designated areas. Audit noted that the SF and the ENIs generally planned their daily inspection work themselves. They did not need to seek approval from their supervisors. As a result, the scope and extent of their daily inspections varied widely. An example is shown below.

### Example 1

In January 2007, 15 SF working on different shifts in DEHO II were deployed to monitor the performance of the street cleansing contractor with a total of 210 workers. During site inspections, the SF selected some workers for checking proofs of identity and compliance with manpower requirements (as stipulated in the contract), and recorded the results of checking in the “Inspection Record on Daily Attendance of Contractor Staff”. Audit analysed the number of workers selected for checking by each Senior Foreman on each shift in January 2007. Audit found that one of the SF’s Inspection Records did not show that workers had been selected for checking. In that month, the average number of workers selected for checking by each Senior Foreman varied widely, from 0 to 56. Details of the audit analysis are shown below:

Shift	Number of SF	Average number of workers selected for checking by each Senior Foreman
Day shift (7:00 a.m. to 3:30 p.m.)	9	0 to 27
Evening shift (3:00 p.m. to 11:30 p.m.)	5	21 to 56
Midnight shift (11:30 p.m. to 7:00 a.m.)	1 (Note)	13
<b>Total</b>	<b>15</b>	

Source: FEHD records

Note: In some areas where shops were still open after midnight, a midnight shift was arranged. The contractor was required to provide street cleansing services, and a Senior Foreman was assigned to conduct inspection work.

4.18 To ensure the effectiveness of daily inspection work, the FEHD needs to provide clearer guidelines on the scope and extent of inspection, taking into account such factors as the track records of the contractors and complaints received. There is also a need that the daily inspection plans (setting out the scope and extent of inspections) of the SF and the ENIs should be reviewed and approved by the Health Inspectorate Officers beforehand.

## **Audit recommendations**

4.19 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

### *Countersigning of Inspection Records*

- (a) **ensure that all Inspection Records prepared by the SF and the ENIs are examined and countersigned by their supervisors in accordance with the Operational Manuals;**

### *Checking of the DIRs*

- (b) **enhance the CMCS to facilitate documentation of checking of the DIRs by the Health Inspectorate Officers;**

### *Scope and extent of daily inspections*

- (c) **provide clearer guidelines on the scope and extent of inspection, taking into account factors such as the track records of the contractors and the complaints received; and**
- (d) **require the supervisors to give prior approval of the daily inspection plans of the SF and the ENIs.**

## **Response from the Administration**

4.20 **The Director of Food and Environmental Hygiene agrees with the audit recommendations. He has said that:**

- (a) **the FEHD has taken immediate action and reminded staff of the importance of conducting supervisory checks on the inspection records; and**
- (b) **contract management duties performed by SFs and ENIs include: (i) conducting random check on the performance of the contractors at site; (ii) interviewing contractors' workers; (iii) checking documents and returns submitted by contractors; (iv) investigation of complaints; (v) following up defaults/irregularities; and (vi) participation in blitz operations, special cleansing operations, etc. Given the range of duties, a daily schedule could cause undue rigidity to daily operation. Having said that, the FEHD agrees that there is a need to enhance the inspection guidelines. It proposes to set specific requirements such as minimum inspection frequency, and explicitly require supervisory checks on inspection reports.**

## Site inspections conducted by supervisors

4.21 According to the Operational Manuals, apart from the daily inspections conducted by the SF and the ENIs, their supervisors are also required to conduct the following types of inspections:

- (a) ***Supervisory inspections.*** These are surprise site inspections conducted by the HIs/Senior HIs to ensure that the required performance standards of the SF/ENIs and the contractors are maintained. For the inspection of street cleansing and waste collection services, a district is usually divided into eight sectors. An HI is required to inspect a sector once a week, while a Senior HI is required to inspect two sectors every two weeks. For pest control services, Senior HIs are allowed discretion and carry out supervisory inspections with regard to the characteristics of individual districts. The inspections include checking of the standard of pest control work and the quality of the rodenticides and pesticides used by the contractors;
- (b) ***System inspections.*** These are surprise district patrols conducted by Chief HIs or the District Environmental Hygiene Superintendents, aiming at improving the overall management of the outsourced street cleansing and waste collection services. Chief HIs and Superintendents are required to conduct frequent district patrols as far as possible; and
- (c) ***District-wide inspections.*** These are surprise site inspections conducted on a district-wide basis and are applicable to street cleansing, waste collection, and pest control services. The inspections include checking the performance of contractors and verifying the employment conditions of workers. A District Environmental Hygiene Superintendent should mobilise most of his staff to conduct a district-wide inspection every three months.

## Audit observations

4.22 Audit examination of the records of site inspections conducted by supervisors of the three selected DEHOs (for the period January 2006 to January 2007) revealed that:

### ***Supervisory inspections***

- (a) in DEHO III, no supervisory inspection of street cleansing and waste collection services had been conducted. In DEHO II, such inspections were conducted, but less frequently than the requirements set out in the Operational Manuals;
- (b) supervisory inspections of street cleansing and waste collection services were mainly conducted during normal office hours of the DEHOs, whereas the contractors provided services from early morning to late night;

- (c) all three DEHOs did not keep formal records of supervisory inspections of pest control services;

*System inspections*

- (d) DEHO II did not keep formal records of system inspections of street cleansing and waste collection services; and

*District-wide inspections*

- (e) all three DEHOs did not conduct any district-wide inspection.

4.23 Site inspections by supervisors are an effective means to ensure that the performance of SF/ENIs and the contractors meets the required standards. **The FEHD needs to ensure that the supervisors of the DEHOs conduct site inspections as required by the Operational Manuals, and keep proper records of these inspections. The FEHD also needs to consider arranging more site inspections outside normal office hours of the DEHOs.**

**Audit recommendations**

4.24 **Audit has recommended that the Director of Food and Environmental Hygiene should ensure that the supervisors of the DEHOs:**

- (a) **conduct supervisory inspections (including system inspections and district-wide inspections) in accordance with the Operational Manuals;**
- (b) **keep proper records of the supervisory inspections; and**
- (c) **conduct more supervisory inspections outside normal office hours.**

**Response from the Administration**

4.25 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that the FEHD has already taken immediate actions to remind staff of the need to comply with the Operational Manuals fully, and to conduct more supervisory inspections outside office hours because cleansing services are provided by contractors from early morning to late night.



## Issue of default notices

4.26 During daily inspections, if a contractor is found to have breached a contractual obligation, a Senior Foreman or an ENI may give the contractor a verbal warning asking that the breach be rectified within a specified period of time. If the contractor fails to rectify the breach within the specified time, or if the breach is of a more serious nature, the Senior Foreman/ENI may recommend to his supervisor that a DN or a warning letter be issued (see para. 3.10). Table 7 shows the numbers of verbal warnings, DNs and warning letters issued during the period January 2006 to January 2007 by the three DEHOs visited by Audit.

**Table 7**

**Verbal warnings, DNs and warning letters issued by 3 DEHOs visited by Audit  
(January 2006 to January 2007)**

<b>DEHO</b>	<b>Service</b>	<b>Verbal warnings</b>	<b>DNs</b>	<b>Warning letters</b>
<b>I</b>	Street cleansing	291	47	43
	Waste collection	30	4	2
	Pest control	22	13	3
	<i><b>Sub-total</b></i>	<b>343</b>	<b>64</b>	<b>48</b>
<b>II</b>	Street cleansing	800	73	3
	Waste collection	13	3	1
	Pest control	91	6	1
	<i><b>Sub-total</b></i>	<b>904</b>	<b>82</b>	<b>5</b>
<b>III</b>	Street cleansing	587	35	4
	Waste collection	0	0	1
	Pest control	21	5	0
	<i><b>Sub-total</b></i>	<b>608</b>	<b>40</b>	<b>5</b>
<b>Total</b>		<b>1,855</b>	<b>186</b>	<b>58</b>

Source: FEHD records

## Audit observations

4.27 Audit examination of the DNs issued by the three DEHOs revealed that there were some inconsistencies in the issue of non-employment-related DNs (particularly those relating to behavioural defaults). Behavioural problems of workers (e.g. napping, using foul languages, and failing to wear proper uniforms) are subject to the issue of non-employment-related DNs straightaway. In situations where several workers were found misbehaving, DEHOs I and III issued only one DN to the contractor concerned. On the other hand, in similar situations, DEHO II would issue one DN for each of the workers concerned. The following is an example of inconsistency.

### Example 2

#### **DEHO I**

In October 2006, a supervisor and a worker providing pest control services were found not wearing proper uniforms. DEHO I issued **one** DN for the behavioural defaults, and the contractor was charged liquidated damages of \$287.

#### **DEHO II**

In April 2006, a supervisor and two workers providing pest control services were found not wearing proper uniforms. DEHO II issued **three** DNs. The contractor was charged liquidated damages totalling \$861 (i.e.  $\$287 \times 3$ ).

*Source: FEHD records*

4.28 While DNs for employment-related defaults can be issued based on FSTB guidelines (see paras. 2.2 and 2.3) and DNs for performance defaults can be issued based on specific criteria (e.g. cleansing standards) laid down in the outsourcing contracts, clear guidelines are lacking on the issue of DNs for behavioural and blatant defaults.

## Audit recommendation

4.29 **Audit has recommended that the Director of Food and Environmental Hygiene should consider providing clearer guidelines on the issue of non-employment-related DNs, particularly for behavioural and blatant defaults, in order to standardise the practices of different DEHOs.**

## Response from the Administration

4.30 The **Director of Food and Environmental Hygiene** has said that the FEHD has sought the Department of Justice's advice to ensure consistency in issuing DNs. It will remind district staff of the advice obtained and require them to follow the instructions accordingly.

## Assessing the performance of contractors

4.31 To assess the performance of a contractor, the DEHO concerned compiles a Monthly Assessment Report for each contract under the contractor. Each Report contains:

- (a) an overall conclusion on the performance of the contractor; and
- (b) a performance rating, which is arrived at by assessing different aspects of performance of the contractor (e.g. "cleanliness of streets, lanes and sitting-out areas/open space", and "staff uniform, efficiency and conduct"), taking into account the numbers of verbal warnings, DNs and warning letters issued to the contractor.

Every month, the DEHOs submit the Monthly Assessment Reports to the FEHD management. The Reports are also used for tender evaluation (see para. 3.12(a)).

## Audit observations

4.32 Audit analysed all the Monthly Assessment Reports compiled by the three DEHOs (from January 2006 to January 2007). Audit noted that the performance ratings of the contractors varied from 0 (which is the best rating) to 7.9. Table 8 shows details of the performance ratings. However, despite the wide variation in performance ratings, all contractors were given the "satisfactory" overall conclusion. For example, in respect of a street cleansing contract awarded to Contractor A (see para. 2.11), 441 verbal warnings, 33 DNs and 2 written warnings were issued by DEHO II during the period January 2006 to August 2006 (Note 10), and the monthly performance ratings ranged from 3.5 to 7.9. However, despite the unsatisfactory performance (see also para. 2.11), all the overall conclusions in the Monthly Assessment Reports on Contractor A during the period were "satisfactory".

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**Note 10:** *This street cleansing contract ended on 31 August 2006.*

**Table 8**  
**Performance ratings of contractors in Monthly Assessment Reports**  
**(January 2006 to January 2007)**

Type of contractor	Performance ratings given by (Note 1)		
	DEHO I	DEHO II	DEHO III
Street cleansing (street cleansing services) (Note 2)	0.11 to 4.11	3.50 to 7.90	2.11 to 4.62
Street cleansing (toilet attendant services) (Note 2)	0 to 1.14	0.08 to 1.41	0.32 to 1.15
Waste collection	0 to 0.73	0 to 0.30	0 to 0.30
Pest control	0 to 0.35	0 to 1.58	0 to 0.15
<b>Overall</b>	<b>0 to 4.11</b>	<b>0 to 7.90</b>	<b>0 to 4.62</b>

Source: FEHD records

Note 1: Zero is the best rating. The higher the rating, the less satisfactory is the performance.

Note 2: A street cleansing contract includes both street cleansing services and toilet attendant services. Separate Monthly Assessment Reports are required for these services.

4.33 Audit noted that the FEHD had not issued guidelines to help the DEHOs determine the overall conclusions of the performance of contractors. Moreover, no guidance is given to the DEHOs on:

- (a) the benchmarks (i.e. range of performance ratings) that indicate overall “satisfactory” or “unsatisfactory” performance of a contractor; and
- (b) the follow-up actions that need to be taken, in case of an “unsatisfactory” overall conclusion. Taking into account different levels of unsatisfactory performance, such actions may include, for example, closer monitoring of the contractor’s performance, debarring the contractor from tendering, or terminating the outsourcing contract.

4.34 In response to Audit’s enquiries, the three DEHOs said in early 2007 that:

- (a) they would make general reference to the performance ratings, and exercised their own judgments in determining the overall conclusions; and

- (b) in the absence of clear guidelines for compiling Monthly Assessment Reports, the assessment of overall performance could only be made on a purely judgmental basis.

4.35 **Audit considers that the FEHD needs to provide clearer guidelines to the DEHOs for compiling the Monthly Assessment Reports in a more objective and consistent manner.** In this regard, the FEHD may consider establishing a rating scale that relates different ranges of performance ratings to different overall conclusions, requiring different follow-up actions.

### **Audit recommendations**

4.36 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **provide clearer guidelines to the DEHOs for compiling the Monthly Assessment Reports in a more objective and consistent manner; and**
- (b) **provide guidance on the follow-up actions that need to be taken for different levels of overall performance.**

### **Response from the Administration**

4.37 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that the FEHD will refine the bandings of contractors' performance in the Monthly Assessment Reports, and will devise follow-up actions that correspond to the refined bandings of performance for implementation at the district level.

### **Sharing of information on the performance of contractors**

4.38 The DEHOs make use of the CMCS to monitor the performance of contractors. Data on verbal warnings, DNs and warning letters issued to different contractors are maintained in the CMCS. However, at present the CMCS does not allow a DEHO to have access to the information uploaded to the system by other DEHOs.

### **Audit observations**

4.39 It is quite common that an outsourcing contractor provides environmental hygiene services in a number of districts. Sometimes, such services may even be provided by a dominant contractor (see paras. 3.42 to 3.46). **Audit considers that the FEHD may consider enhancing the CMCS to facilitate sharing of management information among different DEHOs.** Sharing of performance information would enable DEHOs to adopt a more risk-based approach in their inspection planning and monitoring of the performance of contractors.

### **Audit recommendation**

4.40 **Audit has recommended that the Director of Food and Environmental Hygiene should consider enhancing the CMCS to facilitate sharing of management information among different DEHOs.**

### **Response from the Administration**

4.41 The **Director of Food and Environmental Hygiene** agrees with the audit recommendation.

### **Late-night bagged refuse collection service**

4.42 In order to maintain street cleanliness and public health, some DEHOs have made arrangements in the street cleansing contracts requiring the contractors to provide, on a daily basis (from 11:00 p.m. to 6:00 a.m.), a late-night service of collecting bagged refuse (see Photograph 4).

#### Photograph 4

#### Bagged refuse on a street at night



*Source: Photograph taken by Audit on 21 April 2007 (00:33 a.m.)*

4.43 To provide this service, a refuse collection vehicle travels on the routes determined by a DEHO to collect bags of refuse dumped on the roadside and sends them to the designated refuse disposal site. At present, this service is provided in six districts (Note 11).

#### **Audit observations**

##### *Surprise inspections*

4.44 According to the Operational Manual for Management of Public Cleansing Contracts, an inspection team comprising an HI and a Senior Foreman should, at least twice a month, conduct surprise inspections to ascertain whether the streets are free of bagged refuse after the contractor has completed a round of bagged refuse collection service.

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**Note 11:** *The FEHD considers it necessary to provide this service in these six districts, where there are old buildings with inadequate refuse collection services, and food outlets that open until late night.*

4.45 Audit examined the inspection records of DEHOs I and II (Note 12 — from January 2006 to January 2007). Audit noted that DEHO II had not conducted any surprise inspection during the period. **The FEHD needs to take action to ensure that all DEHOs conduct surprise inspections as required by the Operational Manual.**

*Enforcement action against  
dumping of bagged refuse on the streets*

4.46 According to section 23 of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132BK), any person who deposits any litter or waste on any street or public place shall be liable to a fine. Instead of dumping refuse on the streets, people should dispose of their refuse at rubbish bins placed on the streets or at nearby refuse collection depots, or arrange private refuse collectors to collect the refuse.

4.47 Audit noted that, during surprise inspections, the officers of DEHO I would take enforcement action against persons who dumped bagged refuse on the streets. However, during the period January 2006 to January 2007, only one person was fined for dumping bagged refuse as a result of DEHO I's enforcement action. As regards DEHO II, no surprise inspections were conducted in the same period and no enforcement action had been taken. **The DEHOs need to step up their enforcement action, in order to deter the dumping of bagged refuse on the streets.**

*Need to monitor the bagged refuse dumping problem*

4.48 At present, the FEHD does not keep track of the quantity of bagged refuse collected by contractors. In the circumstances, it does not have data for assessing the magnitude of the problem of bagged refuse dumping on the streets, and devising appropriate preventive measures. **Audit considers that the FEHD needs to record the quantity of bagged refuse collected by the contractors, in order to address the problem.**

**Audit recommendations**

4.49 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

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**Note 12:** *DEHOs I and II oversee two of the six districts that are provided with bagged refuse collection service, but not DEHO III.*



*Surprise inspections*

- (a) ensure that all DEHOs conduct surprise inspections, in accordance with the Operational Manual, to ascertain whether there is still bagged refuse on the streets after the contractors have completed the collection service;

*Enforcement action*

- (b) ask the DEHOs to step up the enforcement action, in order to deter dumping of bagged refuse on the streets; and

*Need to monitor the bagged refuse dumping problem*

- (c) consider recording the quantity of bagged refuse collected by the contractors in order to gauge the extent of the problem, and devise appropriate preventive measures.

**Response from the Administration**

4.50 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the FEHD has already taken immediate action and asked district staff to step up surprise inspections to enhance contract management. It will also promote sharing of information amongst different streams of staff so that habitual dumping activities at certain locations detected during surprise inspections can be followed up for surveillance and enforcement action; and
- (b) the FEHD will consider imposing a new contract clause requiring the contractor to provide weekly returns on the quantity of bagged refuse collected.

## **PART 5: PERFORMANCE MANAGEMENT AND CONTINGENCY PLANNING**

5.1 This PART examines FEHD performance management and contingency planning for the outsourcing of environmental hygiene services.

### **Effectiveness of outsourcing**

5.2 The FEHD has a long history of outsourcing its environmental hygiene services. In 2005, the EU:

- (a) noted that a user satisfaction survey conducted by the then Management Services Agency in 2002 showed that the level of cleanliness in selected areas had improved after outsourcing;
- (b) after examination of some outsourced contracts, found that cost savings ranging from 32% to 51% had been achieved;
- (c) noted that there were insufficient objective data to draw firm conclusions on service quality improvements; and
- (d) indicated that the FEHD had not established a formal mechanism to gauge the views of service recipients on their satisfaction levels with outsourced services.

### **Audit observations**

5.3 Audit noted that the FEHD has obtained cost savings through outsourcing its environmental hygiene services (see para. 5.2). However, there is little information on the service quality improvements achieved by the FEHD through outsourcing.

5.4 In June 2007, in response to Audit's enquiry, the FEHD advised that:

- (a) in 2004, the FEHD conducted a user satisfaction survey on public toilets;
- (b) the FEHD would launch another user satisfaction survey on public toilets in 2007-08; and
- (c) the FEHD was considering a similar survey on street cleansing services.

5.5 In order to assess the effectiveness of the outsourced services, the FEHD needs to put in place a formal system to gauge user satisfaction levels. The FEHD had so far conducted one user satisfaction survey only on public toilets. Similar surveys have not been conducted on other major types of environmental hygiene services, including street cleansing, waste collection, and pest control services.

### **Audit recommendations**

5.6 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **conduct, on a regular basis, user satisfaction surveys on all major types of outsourced environmental hygiene services; and**
- (b) **use the survey results to evaluate the effectiveness of FEHD outsourcing activities.**

### **Response from the Administration**

5.7 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the FEHD is currently conducting a customer satisfaction survey on public toilets, and considering a similar survey on street cleansing services. Subject to resource availability, more surveys on major environmental hygiene services would be conducted on a regular basis; and
- (b) the surveys can cover outsourced as well as in-house services. The results can be used to evaluate the effectiveness of both.

### **Performance measurement and reporting**

5.8 Performance management, including setting performance targets and indicators, provides a means to measure how well an organisation has performed, and helps enhance its performance, transparency and accountability. In its 2007-08 Controlling Officer's Report (COR), the FEHD set a number of key performance targets and indicators for its services. In addition, on its website, the FEHD has reported the performance pledges for its services. Appendix F shows details of FEHD performance targets, indicators and pledges for the street cleansing, waste collection, and pest control services.

## Audit observations

5.9 As shown at Appendix F, the targets, indicators and pledges published in the COR and the website only report performance on services provided by the FEHD as a whole. There are no separate performance measures for outsourced services. As at 1 January 2007, the FEHD outsourced 63% of its street cleansing services, 61% of its waste collection services, and 70% of its pest control services. **As a large part of its services has been outsourced, the FEHD needs to consider publishing specific key performance measures in respect of outsourced services (including, for example, targets and indicators showing the effectiveness of outsourced services), with a view to enhancing accountability and transparency.** This can facilitate benchmarking of the performance of outsourced services against that of in-house services.

## Audit recommendation

5.10 **Audit has recommended that the Director of Food and Environmental Hygiene should consider publishing specific key performance measures for the outsourcing of environmental hygiene services.**

## Response from the Administration

5.11 The **Director of Food and Environmental Hygiene** has said that the targets, indicators and pledges published in the COR for different types of environmental hygiene services apply equally to those provided by the contractors and in-house staff. The FEHD will consider making this clear in future CORs.

## Contingency planning

5.12 The responsibility for the effective provision of environmental hygiene services rests with the FEHD, irrespective of whether the services are provided in-house or through outsourcing. As a large part of environmental hygiene services has been outsourced, there is a risk that unsatisfactory performance of contractors may affect the overall delivery of services. This risk may be addressed by way of contingency planning.

5.13 ***Contingency plans prepared by contractors.*** One of the assessment criteria in the marking scheme for tender evaluation is the adequacy of the tenderer's contingency plan (see item 11 at Appendix D). A tenderer is required to specify strategies in his contingency plan for preventing and reducing service disruption in circumstances such as breakdown of vehicles or equipment, and labour shortage. The maximum marks a tenderer can obtain on this assessment criterion range from 5 to 6 (depending on the types of marking schemes used for different environmental hygiene services). Table 9 shows the marking scheme for contingency plans submitted by tenderers.

**Table 9**  
**Marking scheme for contingency plans of tenderers**

Assessment	Marks awarded
Highly feasible and practicable	Maximum marks
More than acceptable	Half of the maximum marks
Acceptable	No marks
Operationally unacceptable	Tender will not be considered further

Source: FEHD records

5.14 **Contingency plans prepared by the DEHOs.** Apart from the contingency plans of the contractors, the FEHD requires the DEHOs to prepare contingency plans for their own districts, in order to cope with emergency situations (e.g. contractors becoming bankrupt).

5.15 **Overall contingency plan.** The FEHD does not prepare an overall contingency plan at the departmental level for its outsourced environmental hygiene services.

### **Audit observations**

#### ***Low ratings of contingency plans prepared by contractors***

5.16 In 10 of the 11 outsourcing contracts reviewed by Audit (see para. 3.7), the successful tenderers' contingency plans scored no marks (i.e. assessed to be "acceptable" — see Table 9). The contingency plan of one contractor scored half of the maximum marks (i.e. assessed as "more than acceptable"). **It is doubtful whether the FEHD could rely on the contractors' contingency plans in addressing the risks of service disruptions and emergency situations.**

#### ***Contingency plans not always prepared by all DEHOs***

5.17 Audit examined the contingency plans prepared by DEHOs I, II and III (see para. 4.6) for the street cleansing services, waste collection services, and pest control services. In general, these contingency plans included:

- (a) **Emergency measures.** In emergency situations, DEHO staff will be deployed to ensure continuation of all the essential services (i.e. street sweeping and washing, and litter containers emptying). Non-essential services (e.g. gully emptying, and poster and gum removal) will not be provided. The period for implementing the emergency measures will last for no more than one week;
- (b) **Short-term measures.** As the lead time for re-tendering may take more than four months, the DEHO will take immediate action to procure the services by direct purchase authority (i.e. obtaining quotations from different service providers and awarding the contract to the one with the lowest quotation); and
- (c) **Long-term measures.** The DEHO will make urgent request for re-tendering of the contract.

5.18 Audit noted that DEHO I had not prepared the contingency plan for the outsourced pest control services. **For effective contingency planning, the FEHD needs to ensure that all DEHOs prepare contingency plans for different types of outsourcing services.**

#### *Need for an overall contingency plan*

5.19 **Risks due to reliance on dominant contractors.** It is quite common that contractors provide outsourced services in more than one district. If he fails to deliver the required services (e.g. due to bankruptcy), many districts will be affected. For example, for a time Contractor B dominated the provision of pest control services in the territory (see para. 3.42).

5.20 **Risks due to weak financial position of contractors.** It appears that some of FEHD outsourcing contractors may not be financially strong (see para. 3.29). There is a risk that some contractors may have financial difficulties.

5.21 **Risks due to poor track record of employment-related performance.** As at July 2007, 16 outsourcing contracts of the FEHD were undertaken by contractors with employment-related conviction records (see para. 2.7). Besides, most of the demerit points issued under the DPS service-wide related to FEHD outsourcing contracts. There is a risk of service disruptions if a contract is terminated due to poor employment-related performance of contractors.

5.22 In order to address the risks of territory-wide or large-scale service disruptions, Audit considers that, in addition to the contingency plans submitted by the contractors and prepared at the district level, the FEHD needs to prepare an overall contingency plan at the departmental level.

#### **Audit recommendations**

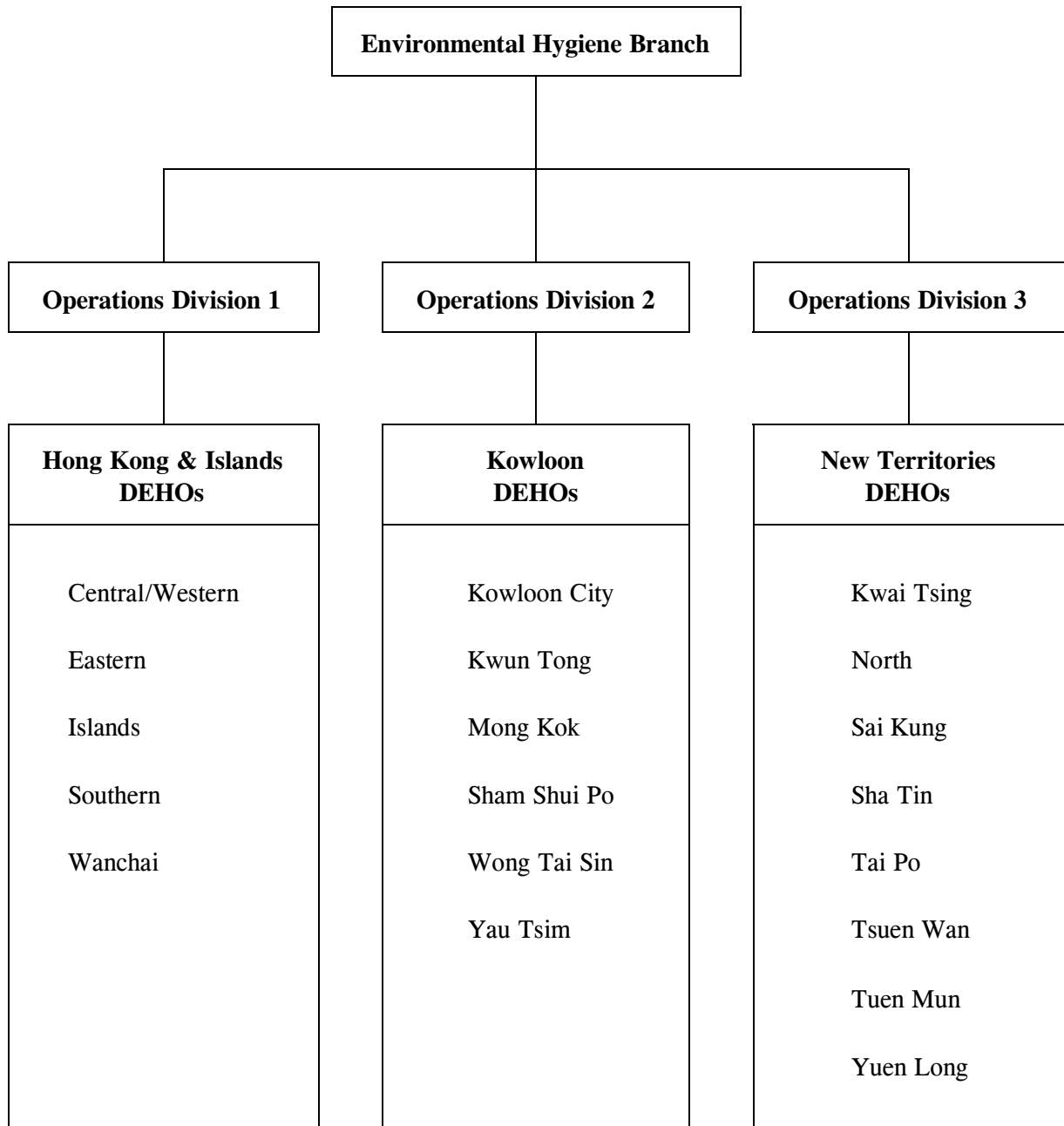
5.23 Audit has *recommended* that the Director of Food and Environmental Hygiene should:

- (a) ensure that all DEHOs properly prepare contingency plans for different types of outsourced environmental hygiene services; and
- (b) prepare an overall contingency plan at the departmental level.

#### **Response from the Administration**

5.24 The Director of Food and Environmental Hygiene agrees with the audit recommendations. He has said that the FEHD marking scheme gives zero mark to contingency plans prepared by contractors which are considered acceptable and practicable. This may give the impression that they are weak. In any case, the FEHD agrees that there should not be any over-reliance on the contractors' contingency plans. The FEHD must develop its own plans, both at the district level and centrally.

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(1 January 2007)



Source: FEHD records



### **Government measures to protect non-skilled workers**

The Government implemented the following key measures to protect non-skilled workers in recent years:

- (a) Financial Circular (FC) No. 3/2004 of March 2004 stipulated:
- (i) **a mandatory requirement for tender assessment, whereby a tender offer should not be considered if, during the 12-month period prior to the tender closing date, the tenderer has had a total of three or more convictions under the relevant ordinances, including:**
- conviction (e.g. for failure to grant any holiday or maternity leave) under the Employment Ordinance (Cap. 57) and the Employees' Compensation Ordinance (Cap. 282) which carries a maximum fine corresponding to Level 5 (\$50,000) or higher of Schedule 8 to the Criminal Procedure Ordinance (Cap. 221);
  - conviction under section 17I(1) of the Immigration Ordinance (Cap. 115) — employing a person who is not lawfully employable;
  - conviction under section 89 of the Criminal Procedure Ordinance and section 41 of the Immigration Ordinance — aiding and abetting another person to breach his condition of stay; and
  - conviction under section 38A(4) of the Immigration Ordinance — the construction site controller employs a person who is not lawfully employable to work on a construction site; and
- (ii) **the implementation of a service-wide Demerit Point System (DPS), under which a contractor will be issued a default notice (DN) which will attract one demerit point, if he has breached his contractual obligations in respect of wages, working hours, and signed written contracts with employees.** A DN will be issued for each breach of these contractual obligations. Different government departments provide information on demerit points allocated to contractors to the Government Logistics Department, which publishes such information on the Government Intranet for sharing by departments. A tender offer should not be considered if during the four most recent quarters before the tender closing date, the tenderer has received from one or more departments a total of six demerit points;

**Appendix B**  
(Cont'd)  
(para. 2.2 and Note 2 to  
para. 2.11 refer)

- (b) FC No. 5/2004 of May 2004 (Note) stipulated **a mandatory requirement on wage level to ensure that the wages offered by government service contractors are not lower than the market rates.** As a mandatory requirement for tender assessment, a tender offer shall not be considered if the monthly wages for the non-skilled workers to be employed by the tenderer are less than the average monthly wages for the relevant industry/occupation as published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics at the time when tenders are invited;
- (c) on 29 April 2005, the Financial Services and the Treasury Bureau (FSTB) promulgated the mandatory requirement of using a **standard employment contract** to set out clearly the employment terms and conditions. Contractors who breach the terms and conditions in the standard employment contract will be subject to legal sanctions or the DPS under FC No. 3/2004. **For breaches of other terms and conditions in the standard employment contract, the FSTB has stipulated that procuring departments should issue DNs (not under the DPS) to the contractor in accordance with the terms of the service contracts.** Such DNs, though not attracting demerit points, will be taken into account by the department when the contractor concerned bids for tenders for relevant service contracts of the department in future; and
- (d) in FC No. 4/2006 of April 2006, the FSTB promulgated the following tightened measures:
- (i) **if a tenderer has obtained any conviction on or after 1 May 2006, his tender will not be considered for a period of five years from the date of conviction.** Apart from the ordinances mentioned in (a)(i) above, conviction under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) will also be counted for the purpose of tender evaluation;
  - (ii) **if a contractor has, over a rolling period of 36 months immediately preceding the month of the tender closing date, accumulated three demerit points (under the DPS) obtained on or after 1 May 2006 from one or more government departments that use service contractors, his tender will not be considered for a period of five years from the date the third demerit point is obtained;**
  - (iii) a service contract shall be terminated if the contractor has obtained any conviction under the relevant ordinances or three demerit points over a rolling period of three years arising from the same contract; and
  - (iv) wage payment should be made by autopay and the DPS is extended to cover breaches of contractual obligations in respect of wage payment by autopay.

*Source: FCs and guidelines issued by the FSTB*

*Note: This superseded FC No. 3/2001 which had stipulated that, effective from May 2001, government departments should evaluate tenderers' proposed wage levels against market rates. They should also require the successful tenderer to sign written contracts with his employees.*

**Outsourcing contracts undertaken by convicted contractors  
(January 2007)**

<b>Company</b>	<b>Contract</b>	<b>Start date</b>	<b>End date</b>	<b>Contract period (Years)</b>	<b>Contract value (\$ million)</b>
A	1	Jul 06	Jun 08*	2	5.67
B	2	Apr 06	Apr 07	1.08	10.20
	3	Jun 05	May 07	2	39.00
	4	Apr 06	May 07	1.16	11.25
	5	Jun 06	May 07	1	7.82
	6	Jul 05	Jun 07	2	30.65
	7	Oct 05	Sep 07*	2	46.77
	8	Mar 06	Feb 08*	2	17.57
	9	Mar 06	Feb 08*	2	53.99
C	10	Nov 05	Oct 07*	2	23.88
	11	Nov 05	Oct 07*	2	20.93
	12	Nov 05	Oct 07*	2	32.58
	13	Nov 05	Oct 07*	2	0.06
	14	Dec 05	Nov 07*	2	24.10
	15	Jan 06	Dec 07*	2	7.42
	16	Jan 06	Dec 07*	2	37.16
D	17	Jan 06	Dec 07*	2	14.77
E	18	May 05	Apr 07	2	2.58
	19	Jun 02	May 07	5	17.88
	20	Sep 02	Aug 07*	5	22.22
	21	Nov 02	Oct 07*	5	21.15
	22	Nov 03	Oct 08*	5	16.01
	23	May 04	Apr 09*	5	16.70
<b>Total</b>					<b>480.36</b>

Legend: \*At the time of the audit fieldwork (July 2007), 16 FEHD contracts were still in force.

Source: FEHD records

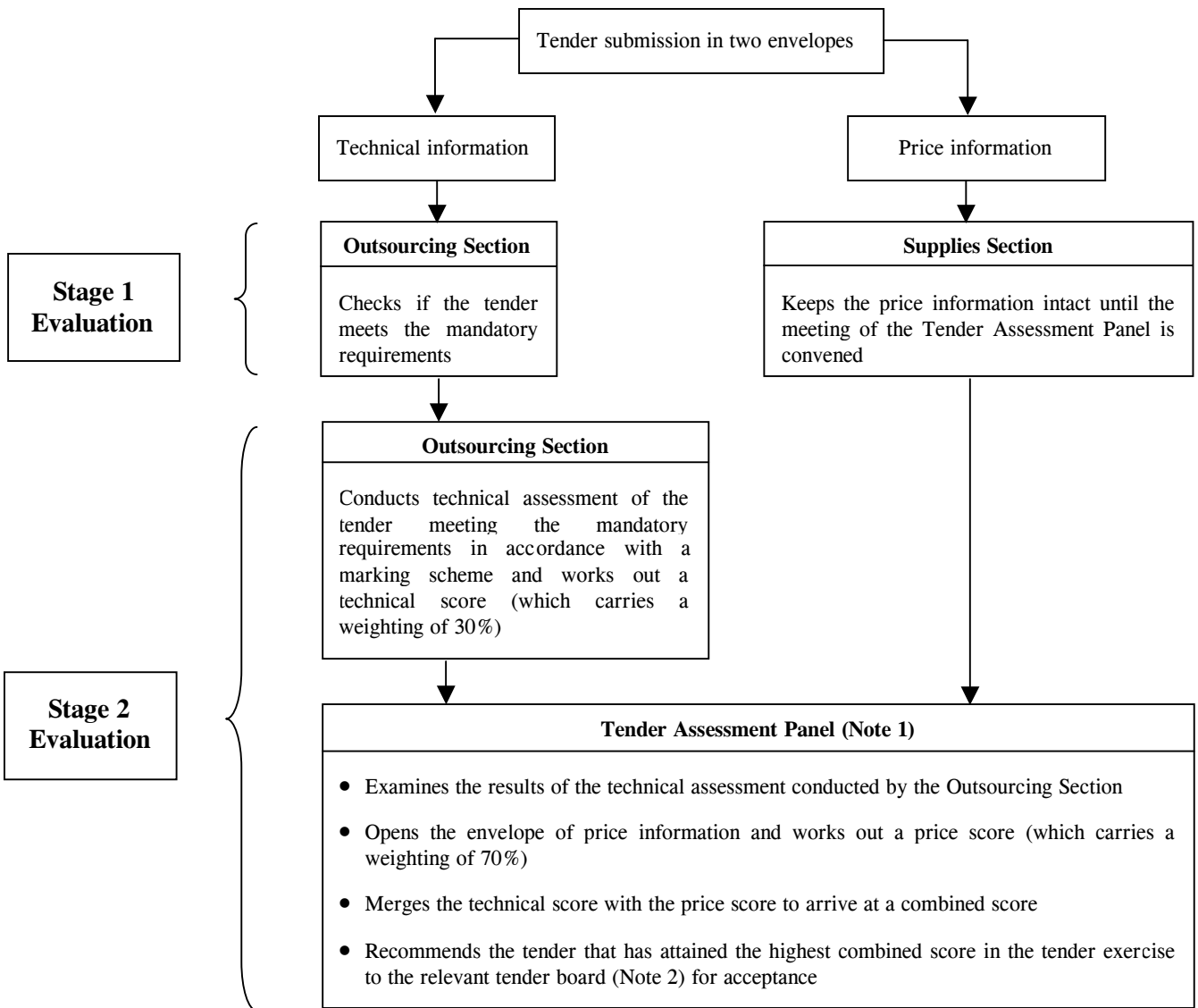
**Appendix D**  
(paras. 3.5, 3.9, 3.19 and  
5.13 refer)

**Marking scheme for street cleansing services**

Item	Assessment criteria	Maximum marks
	<i>Provision of additional resources</i>	
1	Proposed staffing more than minimum requirements	10
2	Proposed vehicles more than minimum requirements	9
	<i>Deployment of human resources</i>	
3	Organisation chart, staff's pre-employment requirements, responsibilities and training	6
4	Supervision of front-line staff and accountability for non-performance	6
5	Work programmes and staff deployment plan	15
6	Monthly wages for workmen	9
7	Daily maximum working hours	4
8	Record of compliance in 36-month period before tender closing date	13
	<i>Experience/performance</i>	
9	Past experience in 5-year period before tender closing date	5
10	Record of past performance in 36-month period before tender closing date	15
11	Contingency plan	5
12	Qualification in relevant quality management	3
<b>Total</b>		<b>100</b>

Source: FEHD records

**Flowchart showing the major steps of the tender evaluation process**



Source: FEHD records

Note 1: The Tender Assessment Panel should consist of at least two persons (usually there are six to seven persons). The Panel's Chairman should be at the rank of Senior Superintendent (or equivalent) or above for tenders exceeding \$1.3 million, and at the rank of Superintendent (or equivalent) or above for tenders from \$650,000 to \$1.3 million.

Note 2: The authorities for the acceptance of tenders are as follows:

<b>Tender value</b>	<b>Authority for acceptance of tender</b>
over \$650,000 to \$1.3 million	An FEHD tender board chaired by the Deputy Director (Administration and Development) of the FEHD
over \$1.3 million to \$10 million	Government Logistics Department Tender Board chaired by the Director of Government Logistics
over \$10 million	Central Tender Board chaired by the Permanent Secretary for Financial Services and the Treasury (Treasury)

For the procurement of services with value equal to or below \$650,000, quotations are required.

**Performance targets, indicators and pledges  
for the street cleansing, waste collection and pest control services**

**Performance targets**

Services	Performance target	Target (Note 1)	2005 (Actual)	2006 (Actual)	2007 (Plan)
Street cleansing	First round street sweeping services on main roads completed before 9:00 a.m. (%)	98 (for 2005) 99 (for 2006 and 2007)	100	100	99
Pest control	Initiating pest control measures within 24 hours upon receiving report of vector-borne diseases (%)	100	100	100	100
	Dealing with complaints on pest control matters within six/seven working days (Note 2) (%)	100	99	100	100

**Performance indicators**

Services	Performance indicator	2005 (Actual)	2006 (Actual)	2007 (Estimate)
Waste collection	Refuse collected (tonnes)	1,990,415	2,015,206	2,015,200
	Recurrent expenditure per tonne of refuse collected (\$)	161	157	156
	Sludge collected by gully emptiers (tonnes)	9,384	9,278	9,300
Pest control	Poison treatments of rodent infestation in building blocks	44,927	46,138	45,000
	Number of trappings	2,771	3,031	3,000
	Mosquito breeding places eliminated	52,758	63,573	63,000
	Pest control surveys conducted	6,790	5,578	6,700

**Appendix F**  
(Cont'd)  
(paras. 5.8 and 5.9 refer)

**Performance pledges**

<b>Services</b>	<b>Performance pledge</b>	<b>Target (Note 1)</b>	<b>2004 (Actual)</b>	<b>2005 (Actual)</b>	<b>2006 (Actual)</b>
Street cleansing	Sweeping streets and emptying litter bins at least 4 times daily in built-up areas, and up to a frequency of 8 times daily in very busy locations or blackspots (%)	95	99	100	100
	Washing streets on a need basis, at least once a week in busy areas, and at least 2 times weekly in problematic areas/blackspots (%)	97	100	100	100
	Effecting minor repairs normally within 24 hours of reporting (%)	95	98	100	99
	Thoroughly cleansing public toilets at least twice daily (%)	95	100	100	100
	Upkeeping cleanliness of public toilets by providing toilet attendants to public toilets with high usage rate (%)	100	100	100	100
Waste collection	Providing at least daily Refuse Collection Service (except on Lunar New Year's Day) (%)	97	100	100	100
Pest control	Initiating pest control measures within 24 hours upon receiving reports of vector-borne diseases (%)	100	100	100	100
	Initiating action within six/seven working days (Note 2) upon receiving complaints on pest control matters (%)	100	99	99	100

Source: 2007-08 COR and website of the FEHD

Note 1: Unless otherwise stated, the target applies to 2005, 2006 and 2007.

Note 2: For 2007, the target processing time has been shortened by one working day (i.e. seven working days for 2004 to 2006 and six working days for 2007).

**Acronyms and abbreviations**

ADB	Administration and Development Branch
Audit	Audit Commission
CMCS	Contract Management Computer System
COR	Controlling Officer's Report
DEHO	District Environmental Hygiene Office
DIR	Daily Inspection Report
DN	Default notice
DPS	Demerit Point System
EHB	Environmental Hygiene Branch
ENIs	Environmental Nuisance Investigators
EU	Efficiency Unit
FC	Financial Circular
FEHD	Food and Environmental Hygiene Department
FSTB	Financial Services and the Treasury Bureau
HD	Housing Department
HIs	Health Inspectors
LCSD	Leisure and Cultural Services Department
LD	Labour Department
LegCo	Legislative Council
LOA	Letter of acceptance
PLIP	Public liability insurance policy
SF	Senior Foremen
SPRs	Stores and Procurement Regulations