

## **CHAPTER 10**

**Hong Kong Housing Authority**

**Housing Department**

**Outsourcing of the management of  
public rental housing estates**

**Audit Commission  
Hong Kong  
25 October 2007**

*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 THE MANAGEMENT OF PUBLIC RENTAL HOUSING ESTATES

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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 Housing Department (HD), the Food and Environmental Hygiene Department (FEHD), and the Leisure and Cultural Services Department. 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 the management of public rental housing estates (the subject matter of this report);
- (b) outsourcing of environmental hygiene services (see Chapter 8 of the Director of Audit's Report No. 49); and

- (c) outsourcing of services in the Leisure and Cultural Services Department (see Chapter 9 of the Director of Audit's Report No. 49).

## **Outsourcing the management of public rental housing estates**

### *Outsourcing activities in HD*

1.4 The Hong Kong Housing Authority (HA) is a statutory body established in April 1973 under the Housing Ordinance (Cap. 283). It is tasked with planning and implementing the public housing programme in Hong Kong. As the HA's executive arm, the HD is responsible for the management of public rental housing (PRH) estates.

1.5 As at 30 April 2007, the HD had 187 PRH estates under its management. To manage these estates, it procured services from property management service providers (Note 1). The HD had outsourced the management of 115 (61%) estates to property services agents (PSAs). For these PSA-managed estates, the PSAs provided a full range of estate management services including cleansing, security, maintenance and simple tenancy services (see Photographs 1 and 2). The HD managed the remaining 72 (39%) estates using its own staff (i.e. directly-managed estates), with cleansing and security services outsourced through separate contracts. These PSAs and cleansing/security service contractors are hereinafter referred to as PSAs/contractors.

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**Note 1:** *The HD employs three types of property management service providers, i.e. the property services agents, the cleansing service contractors and the security service contractors.*



**Photograph 1**

**Outsourced cleansing service in a PRH estate**



*Source: HD records*

**Photograph 2**

**Outsourced security service in a PRH estate**



*Source: HD records*

1.6 As at 30 April 2007, the HD had awarded 188 outsourcing contracts to PSAs/contractors with a total contract value of \$3,201 million, of which \$2,647 million (83%) was in respect of PSA contracts (see Table 1). These 188 contracts involved 44 PSAs/contractors and some 14,800 workers.

**Table 1**  
**Outsourcing contracts of the HD**  
**(30 April 2007)**

Type of contract	Number of			Contract value (\$ million)
	PSAs/contractors	contracts	estates	
PSA	17	41	115	2,647
Cleansing service	16	72	72	207
Security service	11	75		347
<b>Total</b>	<b>44</b>	<b>188</b>	<b>187</b>	<b>3,201</b>

*Source: HD records and Audit analysis*

1.7 The Estate Management Division (EMD) of the HD is responsible for the outsourcing of the management of PRH estates. The EMD is headed by a Deputy Director. Apart from a number of Support Services Sections, the EMD comprises two Sub-divisions (each headed by an Assistant Director) responsible for managing the PRH estates which are grouped into five geographical regions, each headed by a Chief Manager (a Directorate 1 officer). An organisation chart of the EMD is at Appendix A. Each Chief Manager is assisted by Senior Housing Managers (Senior HMs) and Senior Property Service Managers (Senior PSMs) who are responsible for different parts of estate management. The Senior HMs, assisted by HMs and other supporting staff, are responsible for managing the directly-managed estates and the administration of the cleansing and security service contracts in these estates. The Senior PSMs, assisted by PSMs and other supporting staff, are responsible for monitoring PSA work in PSA-managed estates and the administration of PSA contracts.

### *Strategy for outsourcing management*

1.8 In managing contractors, the EU has stipulated in its “Serving the Community by Using the Private Sector: A User Guide to Contract Management” of February 2007:

*“Successful outsourcing requires both parties (i.e. the government departments and contractors) to act ethically and collaborate closely with each other if they are to develop trust and a good relationship. It is beneficial for departments to adopt a partnership mentality when managing the contractor relationship.”*

The HD regards the PSAs/contractors as its long-term business partners. As such, the HD considers it critical to promote mutual trust between the parties in order to foster a co-operative spirit and partnership throughout the contract. Within this partnership framework, the HD has developed its supervision and monitoring system.

### *Audit review*

1.9 The objective of this audit review is to examine the economy, efficiency and effectiveness of HD outsourcing of the management of PRH estates. 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) procurement of services and contract administration (PART 3);
- (c) monitoring the performance of PSAs (PART 4); and
- (d) performance management and contingency planning (PART 5).

### **General response from the Administration**

1.10 The **Director of Housing** agrees with the audit observations and accepts the audit recommendations. He thanks Audit for conducting the audit review which is, no doubt, of value to the HA and the HD.

### **Acknowledgement**

1.11 Audit would like to acknowledge with gratitude the full cooperation of the staff of the HD 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 engaged by PSAs/contractors in outsourcing contracts of the HD.

### **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 2); 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 2:** *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.

### **Labour protection measures taken by Housing Department**

2.4 In the HD, the EMD is responsible for the management of PRH estates, including the management of outsourcing contracts (see para. 1.7). The EMD issues Guidelines (Best Practice Notes/Instructions — Note 3) for the administration of labour protection requirements in outsourcing contracts. These Guidelines have largely followed the mandatory requirements and tightened measures as mentioned in the Government Financial Circulars, including the adoption of the DPS (see paras. 2.2 and 2.3).

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**Note 3:** *For PSA-managed estates, the HD issued Best Practice Notes governing the administration of labour protection requirements in PSA contracts (latest version issued in July 2005). For directly-managed estates, the HD issued EMD Instructions governing the same in cleansing and security service contracts (latest version issued in February 2007).*

2.5 In addition, the HD has implemented a number of labour protection measures. These include the following:

- (a) **Standard salary statements.** To support their claims for monthly payment of services, PSAs/contractors are required to submit standard monthly salary statements (in a format approved by the HD) showing clearly calculations of wages payable to the workers. Both the PSAs/contractors and their workers are required to confirm the validity of the statements by signing them. The individual amounts in the statements have to be checked and certified by the PSAs/contractors' accountants;
- (b) **Part-time workers.** The number of part-time workers is capped at no more than three-eighth of the total workforce;
- (c) **"Batch-payment adjustment".** The "batch-payment adjustment" concept is adopted in validating the payments claimed by PSAs/contractors. The workers' salary statements are sample checked and the workers concerned are interviewed. If a shortfall in payment to workers is noted from the sample check, a downward adjustment in the same proportion of the shortfall will be made to the total payments to the PSAs/contractors by deducting the amount from the monthly fee;
- (d) **Surprise roll calls.** Estate/property management staff (estate staff) are required to carry out surprise roll calls to make sure that the workers who have signed in are actually working on site;
- (e) **Dedicated telephone hotline.** A dedicated telephone hotline was set up in July 2005 to receive complaints on employment-related issues;
- (f) **Central Monitoring Team.** A Central Monitoring Team (CMT) was set up in July 2005 to investigate into cases of employment-related complaints and suspected malpractices discovered by HD staff (see para. 2.8); and
- (g) **Removal from HA Lists of PSAs/Contractors.** The HD maintains Lists of PSAs/Contractors (see para. 3.2). Where a PSA/contractor has accumulated a total of three or more demerit points under one or more government service contracts (including HA contracts) over a 3-year rolling period, or one or more convictions under the employment-related ordinances from any government and/or private contracts, the PSA/contractor will be removed from the respective HA List of PSAs/Contractors. The period of removal from the list will be a maximum of five years from the date of conviction, or from the date on which the third demerit point was obtained (Note 4).

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**Note 4:** *Up to 8 August 2007, the HD had removed seven PSAs/contractors from the HA Lists of PSAs/Contractors due to employment-related convictions or demerit points obtained (under the service-wide DPS) on or after 1 May 2006. Six of the seven PSAs/contractors were removed for a maximum period of five years and one PSA was removed for a period of one year (see para. 2.32).*

### *Role of estate staff*

2.6 According to the EMD Guidelines, estate staff of the HD are responsible for sample checking (Note 5) of PSA/contractor compliance with the employment-related contractual obligations. They will issue DNs under the service-wide DPS if the PSAs/contractors are found to have breached the labour protection requirements in relation to wages, daily maximum working hours, signing of employment contracts and wage payment by means of autopay (Note 6). The EMD Guidelines for the issue of such DNs are as follows:

- (a) estate staff should confirm with evidence that the PSAs/contractors concerned had breached their contractual obligations;
- (b) they are encouraged to settle disputes at source. They are also required to interview the PSAs/contractors requesting them to give explanations prior to the issue of DNs, and keep records of such interviews;
- (c) if estate staff are in doubt with the explanations given by the PSAs/contractors, they should seek directives from their senior officers; and
- (d) DNs will be issued if the explanations given by the PSAs/contractors are not acceptable.

In addition to the issue of DNs under the DPS, estate staff are expected to apply the “batch-payment adjustment” (see para. 2.5(c)) if, during their sample checking, PSA/contractor employees are found to have been paid wages less than those agreed in the employment contracts.

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**Note 5:** *Estate staff were required to conduct 100% initial checking of all the information printed on the salary statements. In addition, they had to interview at least one worker or 5% of all the PSA's/contractor's staff (whichever is the higher), to confirm and clarify with them the wage payments on the salary statements. With the implementation since September 2005 of the HD requirement for the PSAs'/contractors' payroll records to be audited by qualified accountants, the estate staff's workload has been greatly reduced. However, estate staff still have to interview 5% of the staff and follow up on irregularities.*

**Note 6:** *The DPS applied to those contracts awarded on the basis of tenders invited on or after 27 March 2004 for breaches in respect of wages, working hours and written employment contracts. It was extended to cover breaches in respect of standard employment contracts for contracts with tenders invited on or after various dates in 2005 (for different types of outsourcing contracts), and further extended to cover breaches in respect of making wage payment by means of autopay for contracts with tenders invited on or after 1 May 2006.*

2.7 PSAs are allowed to have one tier of sub-contracting. In general, they employ sub-contractors to provide cleansing and security services for the estates they manage. Under the PSA contracts, the labour protection requirements (including the issue of DNAs) are also applicable to the sub-contractors, and the PSAs are liable for any breaches committed by their sub-contractors.

2.8 The HD receives employment-related complaints from various sources (Note 7). Estate staff are the focal point for handling normal complaints relating to estates. On receipt of an employment-related complaint, estate staff conduct an initial investigation of the case. If there is prima facie evidence that the case is substantiated, estate staff will, if required, refer the case to the CMT (see para. 2.5(f)) for in-depth investigation and will take follow-up action recommended by the CMT.

### ***Role of the CMT***

2.9 For urgent complaint cases, the CMT conducts an immediate investigation and reports the findings to the estate staff for follow-up action. Given the urgent nature of the cases, the CMT would interview all non-skilled workers concerned in order to facilitate the consolidation of accurate findings and prompt departmental response.

2.10 The CMT collates information on complaints received at estates relating to the labour protection requirements and maintains a central complaint record of the cases. Two complaint registers are maintained, one for cleansing service contracts and the other for security service contracts (Note 8). Apart from conducting investigations on complaints, the CMT also conducts ad hoc inspections to ensure PSA/contractor compliance with labour protection requirements. Through its investigations/inspections, the CMT often identifies various employment-related irregularities (mainly through examining PSA/contractor records and interviewing the non-skilled workers). The CMT will refer its findings to the estate staff for follow-up action. In this regard, the CMT maintains a central inspection record of all such findings, including follow-up action by estate staff.

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**Note 7:** *Such sources include workers' unions, workers, media, departmental hotline, pressure groups, Legislative Council Members and referrals from other government departments.*

**Note 8:** *Complaints relating to PSA contracts, usually on cleansing and security services sub-contracted by the PSAs, are also recorded in the two complaint registers.*



## Extent of employment-related irregularities

2.11 *Number of non-skilled workers employed.* The HD outsourced a significant proportion of its estate management services, particularly cleansing and security. As at May 2007, some 13,700 non-skilled workers were engaged under these outsourcing contracts.

2.12 *Number of cases with suspected employment-related irregularities.* Since February 2004, the HD has maintained a central record of cases with suspected employment-related irregularities (see Table 2).

**Table 2**

**Cases with suspected employment-related irregularities  
(8 August 2007)**

<b>Year</b>	<b>Number of suspected cases</b>
2003-04	31
2004-05	25
2005-06	118
2006-07	126
2007-08 (up to 30 June 2007)	25
<b>Total</b>	<b>325 (Note)</b>

*Source: HD records*

*Note: These cases comprised 213 cases which had originated from employment-related complaints and 112 cases from CMT inspections (see para. 2.10).*

As at 8 August 2007, of the 325 suspected irregular cases recorded, 117 cases were found with irregularities established (irregular cases). Of these 117 irregular cases, 63 originated from CMT inspections (see Note in Table 2 and para. 2.10).

2.13 *Nature of irregularities.* The irregular cases largely related to non-compliance of the PSAs/contractors with employment-related contractual obligations. Examples include:

- (a) no or insufficient wage payment for working on rest days;
- (b) over-deduction of wages for no-pay leave taken;
- (c) delay in wage payments;
- (d) requiring employees to pay uniform deposits and/or fees for uniform cleaning;
- (e) no or inadequate contributions made by the employer to the Mandatory Provident Fund (MPF) Schemes for the employees; and
- (f) inaccurate attendance records.

2.14 *Case studies.* Audit selected 10 irregular cases for examination. Four examples are shown at Appendices C to F for illustration.

### **Audit observations**

2.15 The HA is committed to protecting non-skilled workers, as shown in HD implementation of various mandatory requirements and tightened measures on labour protection in the past few years (see paras. 2.4 and 2.5). Audit also recognises the efforts made by HD staff, particularly those working in the CMT, in monitoring the PSAs'/contractors' compliance with employment-related contractual requirements, conducting investigations on suspected cases and initiating ad hoc inspections (see paras. 2.6 to 2.10).

2.16 Based on the case studies (at Appendices C to F), Audit has however found that the suspected cases had not always been adequately followed up before the cases were concluded. Very often, once the defaulted PSAs/contractors advised the HD staff that they had taken or would take rectification actions (such as having paid or agreeing to pay the amounts underpaid to employees), estate staff would take no further action (such as the issue of DNs) and the complaint cases would not be pursued. Estate staff did not always contact the workers to verify if the irregularities had been rectified. There were occasions when the PSAs/contractors were verbally warned or given warning letters. However, such warnings were not followed by the issue of adverse performance reports (Note 9) to the defaulted PSAs/contractors, and would not affect their bidding opportunities in future government outsourcing contracts (including HA contracts).

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**Note 9:** *PSAs/contractors may be given an adverse rating in HD quarterly performance appraisals when they have shown deficiencies in their performance, such as slow progress, poor response, poor management of sub-contractors and poor wage payment record.*

2.17 Regarding the 117 irregular cases (see para. 2.12), up to 8 August 2007, the HD had only taken the following regulatory actions against the defaulting PSAs/contractors:

- (a) 17 cases were referred to law enforcement agencies (e.g. the LD) for investigation. In **three cases**, the PSAs/contractors were convicted; and
- (b) in 2005, the PSAs in **two cases** were issued with DNs under the DPS. On PSA appeal, the DNs were withdrawn after review by the HD Provisional Review Board (Note 10). Apart from these two cases, the HD had not issued any DN under the DPS (Note 11), nor had it issued any DN that did not attract a demerit point (Note 12).

The HD had neither applied the “batch-payment adjustment” (see paras. 2.5(c) and 2.6) nor issued any adverse performance reports to the PSAs/contractors for the irregularities identified. It appears that the HD did not always take adequate regulatory actions in its follow-up of the suspected irregular cases.

#### *Need to step up regulatory actions*

2.18 Audit notes that the HD has adopted a partnership approach in managing the PSA/contractor relationship (see para. 1.8). In order to maintain a collaborative and trusted relationship with the PSAs/contractors, HD staff might have preferred to take a more flexible approach when dealing with less serious defaults. For example, HD staff would not take regulatory actions (such as the issue of DNs that attract demerit points) if they found that the PSAs/contractors did not commit the defaults intentionally, and had undertaken to rectify the irregularities.

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**Note 10:** *The Provisional Review Board, chaired by an Assistant Director of the HD, was tasked to consider and determine appeals lodged by PSAs/contractors against DNs issued under the DPS.*

**Note 11:** *Of the 117 irregular cases, 65 related to DPS contracts (i.e. contracts covered by the DPS) and 52 related to non-DPS contracts (i.e. contracts awarded on the basis of tenders invited before the DPS was implemented).*

**Note 12:** *For directly-managed estates, in addition to the issue of DNs under the service-wide DPS, HD staff have been allowed since October 2005 to issue DNs without demerit points to deal with less serious employment-related breaches. For PSA-managed estates, DNs without demerit points can also be issued for contracts tendered out after June 2007. Such breaches to be covered by DNs without demerit points may include collection of fees for uniform, training, administration and equipment.*

2.19 In respect of the 117 irregular cases, 65 cases related to DPS contracts (see Note 11 to para. 2.17(b)). At a meeting with HD senior management in September 2007, HD staff advised Audit that in their view most of these 65 irregular cases did not warrant the issue of DNs under the DPS. In this connection, Audit notes that the Government Financial Circulars do not appear to have given government departments leeway on the issuing of DNs under the DPS. On enquiries, the FSTB advised Audit in September 2007 that the HD, as the executive arm of the HA, had its own procurement policy and procedures as well as guidelines on the administration of DNs under the DPS, and was not obliged to follow FC Nos. 3/2004 and 4/2006 (see para. 2.2(a) and (d)).

**2.20 Although the HD is not obliged to follow FC Nos. 3/2004 and 4/2006, it has adopted the Government's DPS (see para. 2.4). Audit considers that the HD needs to issue clearer guidelines to its staff on the circumstances for the issue of DNs under the DPS.**

2.21 Audit analysis of irregular cases in the CMT's central records (see paras. 2.10 and 2.12) for the period February 2004 to June 2007 shows that some PSAs/contractors have a relatively high incidence of committing employment-related defaults. Based on the records, 16 PSAs/contractors had each committed defaults on three or more occasions, with four of them each having committed defaults on five or more occasions. One of these four PSAs/contractors had committed defaults on 11 occasions. This is unsatisfactory.

**2.22 Audit considers that the HD needs to critically review the adequacy of its regulatory actions. In order to deter employment-related breaches (particularly repeated default cases), Audit sees the need for the HD to step up its regulatory actions. Taking effective regulatory actions also helps deliver a clear message to the industry that the HA will not tolerate any potential exploitation of non-skilled workers.**

2.23 Given that estate staff work closely with the PSAs/contractors in estate management, Audit considers that the existing arrangement of having suspected cases followed up by estate staff is not desirable. The same view was expressed by the Independent Commission Against Corruption (ICAC) in its review report "Administration of Contracts with Labour Protection Clauses" of July 2005. **Audit considers that the CMT, as an independent unit recommended by the ICAC to be set up in the HD, is well placed to oversee the following up of irregular cases by estate staff.**

2.24 In an examination of HD records, Audit also noted that the justifications for not issuing DNs (whether with or without demerit points) were not recorded. Approval from supervisors was not always obtained for the regulatory actions taken (or not taken). **Audit considers that the HD needs to require its staff to document the regulatory actions**

taken, and the reasons for not taking regulatory actions against the defaulted PSAs/contractors, and to seek supervisory approval.

### *Latest development*

2.25 After Audit invited the HD's attention to the four cases (see para. 2.14), in September 2007 the HD revisited these cases and stepped up its regulatory actions by issuing one DN that did not attract a demerit point to each of the contractors in Cases 3 and 4 (Appendices E and F, respectively). In the same month, the HD also issued a written warning to the PSA in Case 2 (Appendix D) for non-compliance with the contractual requirements.

### **Audit recommendations**

2.26 **Audit has recommended that the Director of Housing should:**

- (a) **issue clearer guidelines to HD staff on the circumstances for the issue of DNs under the DPS;**
- (b) **critically review the adequacy of the HD's regulatory actions, particularly for those PSAs/contractors who have repeatedly committed employment-related defaults;**
- (c) **step up HD regulatory actions against defaulted PSAs/contractors;**
- (d) **appoint the CMT to oversee the following up of irregular cases by estate staff; and**
- (e) **require HD staff to document in future the regulatory actions taken, and the reasons for not taking regulatory actions against the defaulted PSAs/contractors, and to seek supervisory approval.**

### **Response from the Administration**

2.27 The **Director of Housing** agrees with the audit recommendations. He appreciates Audit observation of the efforts made by HD staff, especially CMT staff, in deterring irregularities on non-compliance of employment-related contractual obligations by PSAs/contractors. He has said that the HD:

- (a) in the light of the FSTB's advice (see para. 2.19), will issue clearer guidelines to HD staff on the circumstances for the issue of DNs under the DPS;

- (b) will review its monitoring mechanism and take appropriate regulatory actions such as serving DNs, issuing adverse performance reports and delisting PSAs/contractors from HA approved lists;
- (c) has applied stringent rules against serious breaches of labour protection requirements in relation to committed wages, daily maximum working hours, signing of standard employment contracts and wage payment through autopay as well as those PSAs/contractors failing to comply with contractual requirements. On the other hand, the HD has been using a partnership approach in handling outsourcing work. PSAs/contractors are allowed to take rectification actions on minor irregularities if the defaults are not committed wilfully;
- (d) will review its existing regulatory system with a view to stepping up regulatory actions against defaulted PSAs/contractors, where necessary;
- (e) will review the details of implementation for the appointment of the CMT to oversee follow-up action taken by estate staff; and
- (f) will issue guidelines on the documentation of regulatory actions taken or not taken for compliance by estate staff.

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

- (a) the LD supports the audit recommendation in paragraph 2.26(c) of stepping up regulatory actions against defaulted PSAs/contractors in order to forestall any exploitation of the non-skilled workers;
- (b) to complement regulatory actions by individual procuring departments, the LD will continue to conduct vigorous workplace inspections to ensure compliance on the part of government service contractors with the provisions of the Employment Ordinance and the Employees' Compensation Ordinance (Cap. 282); and
- (c) 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 the cases to the LD for investigation and follow-up actions.

## Removal from HA Lists of PSAs/Contractors

2.29 On 23 March 2006, the Tender Committee of the HA (Note 13) endorsed the adoption of a tightened measure on labour protection that a PSA/contractor would be removed from the respective HA Lists of PSAs/Contractors **for a maximum of five years** (see para. 2.5(g)), if he:

- (a) had accumulated a total of three or more demerit points under one or more government contracts over a 3-year rolling period; or
- (b) had obtained one or more convictions under the employment-related ordinances on or after 1 May 2006.

The period of removal from the Lists of PSAs/Contractors would be counted from the date on which the third demerit point was awarded or from the date of conviction. The tightened measure was effective from 1 May 2006 onwards.

2.30 One month after the tightened measure was endorsed by the Tender Committee of the HA, on 27 April 2006, the FSTB promulgated the Government's tightened measure (vide FC No. 4/2006) that tender offers submitted by a tenderer which had accumulated three demerit points or a convicted tenderer would **not** be considered **for a period of five years** from the date the third demerit point was obtained or from the date of conviction ("five-year suspension" — see para. 2.2(d)). The tightened measure was applicable to contracts with tenders invited on or after 1 May 2006.

## Audit observations

2.31 Compared with the Government's five-year suspension requirement, the HA procurement policy of "removal of a defaulted PSA/contractor from the HA Lists for a maximum of five years" is less restrictive. In the case of the HA, a PSA/contractor who has accumulated three demerit points or has been convicted does not need to await the expiry of five years from the date of the third demerit point/conviction before he can bid for HA contracts again. While the HA may draw up its own procurement policy and procedures (see para. 2.19), Audit considers it not desirable that its practices are at variance with the Government's key initiatives to protect non-skilled workers. **Given that the HA procurement policy of "removal of a defaulted PSA/contractor from the HA Lists for a maximum of five years" was made one month before the issue of FC No. 4/2006, it would be desirable for the HD to bring to the attention of the Tender Committee the requirements set out in FC No. 4/2006.**

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**Note 13:** *The Tender Committee is chaired by a Member of the HA. Its terms of reference are: to consider and decide on acceptance of tenders, and to draw up and review tendering guidelines and procurement strategies and policies.*

2.32 In this regard, Audit noted one case in which the PSA was convicted of contravening the Employees' Compensation Ordinance under a non-government contract in November 2006. The HD had suspended the convicted PSA from tendering since the date of conviction. In July 2007, after thorough discussion and due consideration of the background, nature and severity of the case, the Tender Committee decided to remove the convicted PSA from the Lists of PSAs/Contractors **for one year** from the date of conviction.

2.33 After the convicted PSA had been suspended from tendering, in January 2007 (two months after the conviction) the HA renewed an outsourcing contract (Note 14) with the convicted PSA for a period of two years commencing 1 February 2007. The value of the renewed contract amounted to \$49 million. In the renewed contract, there was no requirement for the PSA to adopt the Government's standard employment contract for employing non-skilled workers (see para. 2.2(c)). The contract renewal was approved by an officer under HD delegation of authority (Note 15), taking into account factors including contract payments to the contractor being borne by the Home Ownership Scheme (HOS) flat owners, consultations with the owners' organisations of the estate, and the imminent handover of the property management responsibility to the owners' corporation (OC) of the estate (Note 16). On Audit's enquiries with the HD in September 2007, HD officers emphasised that in this case, while the HD arranged the tenders and signed the service contract for the HOS estate, the HA was merely an agent acting on behalf of the flat owners of the HOS estate. They also advised Audit that the HD had not required the PSA to adopt the Government's committed wages and working hours due to OC objection.

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**Note 14:** *The contract, signed between the HA and the PSA, was for the provision of services for the management of the residential portion of a Home Ownership Scheme estate. The HA acted as the Manager on behalf of the owners' corporation of the estate under a Deed of Mutual Covenant. The management fees payable to the PSA were paid by the flat owners of the estate.*

**Note 15:** *Since 1991, an Assistant Director of the EMD has been authorised to approve the renewal of outsourcing contracts for the management of Home Ownership Scheme estates, subject to the condition that should there be cases which have deviated from current policy and practice and warrant special consideration, they should be submitted to HA Home Ownership Committee for approval. With the streamlining of the HA committee structure in 2003, the work of the Home Ownership Committee has been taken over by other relevant HA committees.*

**Note 16:** *Based on HD records, the renewed contract was intended to be a stop-gap arrangement as the OC of the estate (set up in January 2007) would take over the management responsibility of the estate in December 2007 and the renewed contract had a break clause that allowed the HD to terminate the contract without compensation by giving not less than two months' written notice. On 10 July 2007, the HD advised the PSA in writing that the renewed contract would be terminated on 30 November 2007.*



- 2.34 For government service contracts, FC No. 4/2006 has stipulated that:
- (a) extension of contract should be avoided as far as possible and be adopted only as a stop-gap measure; and
  - (b) barring any unforeseen circumstances, in line with the principle of this circular, contract extension should normally **not** be approved if the contractor has obtained any conviction under the relevant ordinances.

2.35 **While the HD is not obliged to follow FC No. 4/2006 (see para. 2.19), Audit considers that the HD's award of a renewed contract to a convicted PSA (who had already been debarred from bidding), and the fact that the HD had not required the PSA to adopt the standard employment contractual terms for non-skilled workers should have warranted special consideration and approval by the relevant HA committee (see Note 15 to para. 2.33). The HD may wish to inform the relevant HA committee (e.g. Tender Committee) about the case, and seek the committee's directions on actions to be taken on similar contracts in future.**

#### **Audit recommendations**

- 2.36 **Audit has recommended that the Director of Housing should:**
- (a) **bring to the attention of the Tender Committee the FSTB's five-year suspension requirement in FC No. 4/2006; and**
  - (b) **inform the relevant HA committee about the renewed contract with the convicted PSA (see para. 2.33) and seek the committee's directions on actions to be taken on similar contracts in future.**

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

- 2.37 The **Director of Housing** agrees with the audit recommendations. He has said that:
- (a) although the Tender Committee was fully aware of the situation during the discussion of a regulatory case in July 2007, the HD would inform the Committee again on the difference between the HA's prevailing procurement policy and the requirements stipulated by the FSTB;
  - (b) the HD will seek the views from the relevant HA committee about the renewed contract with the convicted PSA;

- (c) the HA has its own procurement policy, procedures and measures on the management of services providers. The Tender Committee, in adopting the tightened measure on 23 March 2006 (see para. 2.29), consciously decided to remove convicted contractors from the HA Lists of PSAs/Contractors for a maximum of five years depending on the seriousness and nature of the convictions. The Tender Committee members have been informed at various meetings and are fully aware of the “five-year suspension” requirement of FC No. 4/2006 when discussing regulatory actions to be taken on PSAs/contractors. Nevertheless, the HD will bring to the attention of the Tender Committee on such difference again; and
  
- (d) there was concern about awarding the renewed contract, on behalf of the OC of the HOS estate, to the convicted PSA who had been suspended from tendering owing to a conviction of one minor offence under the Employees’ Compensation Ordinance in a private development. In the process of awarding the renewed contract, the HD’s role was merely an agent acting in accordance with the decision of the OC who, on this occasion, insisted on continuing the service with the PSA concerned. The HD will inform the relevant HA committee of the matter and seek direction on actions to be taken on similar contracts in future.

### **Checking conducted by estate staff**

2.38 To monitor and enforce PSA/contractor compliance with the labour protection requirements, the HD has deployed estate staff resources to conduct salary checks, staff interviews and follow-up on complaints (see Note 5 to para. 2.6). Audit however noted that the estate staff did not identify significant findings from their checking (Note 17).

2.39 On the other hand, Audit found that the inspections conducted by the CMT were more fruitful as the CMT identified from its investigations and ad hoc inspections (see paras. 2.9 and 2.10) multifarious irregularities committed by PSAs/contractors. During the period July 2005 to June 2007, the CMT identified 63 irregular cases (see para. 2.12) with 227 irregularities. Such irregularities included underpayment, delay in wages payment, collection of charges such as fees for uniform, no MPF records produced for inspection, inaccurate attendance records, cross-region working, etc.

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**Note 17:** *Based on an examination of the “Monthly Reports on Checking of Employment Conditions of Cleansing Workers/Security Guards” kept at eight estates, Audit noted that estate staff had no or immaterial findings. Over the period July 2005 to June 2007, HD estates referred only six irregular cases to the CMT for in-depth investigation under the procedures mentioned in paragraph 2.8.*

2.40 In Audit's view, the CMT can conduct more effective inspections because its staff have acquired more specialised knowledge of labour protection through their daily monitoring of labour exploitation. Besides, unlike estate staff, CMT staff are not involved in the day-to-day management of the outsourcing contracts and can play an independent role in monitoring the work of PSAs/contractors.

2.41 Audit notes that the CMT has adopted various good practices in carrying out inspections, including for example:

- (a) ***Risk management approach.*** CMT staff adopted a risk management approach for selecting estates/contracts to be inspected (e.g. they would conduct more compliance checking on those contracts which have commenced for less than three months, or would soon be terminated);
- (b) ***Expanded scope of investigation.*** When CMT staff investigated complaints received, they would broaden their scope of investigation and look for other potential employment-related breaches or malpractices (see Cases 1 and 2 at Appendices C and D respectively). Apart from conducting staff interviews, they also inspected PSA/contractor records (such as salary statements, employment contracts, payroll records and attendance books) which helped them find other irregularities;
- (c) ***Comprehensive interview.*** CMT staff conducted very thorough interviews of PSA/contractor staff, including using an inquisitive approach and the very comprehensive HD standard questionnaire to seek information from the non-skilled workers (Note 18); and
- (d) ***Informative inspection reports.*** CMT staff submitted to their supervisors very comprehensive and informative inspection reports that contained background, inspection details, observations, analyses and conclusions.

## **Audit observations and recommendations**

2.42 Given that CMT staff are more specialised in handling employment-related irregular cases and they have produced very useful findings from their inspections, Audit considers that the CMT needs to disseminate its good practices (e.g. by holding experience-sharing seminars with estate staff). To enhance exchange of knowledge and experience, the CMT may consider issuing case study notes and frequently asked questions for estate staff's reference.

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**Note 18:** *In comparison, estate staff recorded their interview notes in a brief form, or did not prepare interview notes.*

2.43 **Audit has recommended that the Director of Housing should request the CMT to disseminate its good practices, and ask the CMT to issue case study notes, including frequently asked questions, for estate staff's reference.**

### **Response from the Administration**

2.44 The **Director of Housing** agrees with the audit recommendations. He has said that the HD will continue to disseminate good practices through various channels including issuing best practice notes and guidelines, and conducting seminars with staff, PSAs and contractors.

### **Management information**

2.45 Each month, the CMT reports the following statistical information to HD management:

- (a) number of cases inspected by the CMT (including complaints received by the CMT from workers' unions and referrals from estates, and inspections initiated by the CMT itself);
- (b) number of estates inspected, number of non-skilled workers interviewed and number of workers with PSAs'/contractors' records checked;
- (c) number of outsourcing contracts examined;
- (d) number of suspected cases of employment-related irregularities received by the HD; and
- (e) number of complaints received by the HD departmental hotline.

### **Audit observations and recommendation**

2.46 The information submitted only provides management with indicators of CMT workload, but not the results and outcomes of CMT inspections (Note 19). Audit considers that the HD management may not be able to assess the effectiveness of the HD measures (including the setting up of the CMT). The HD needs to improve its management information to be provided on the protection of non-skilled workers.

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**Note 19:** *The outcome of investigation may include reporting the numbers of irregular cases substantiated, complaints not substantiated, complaints still under investigation, DNs (with or without demerit points) and warning letters issued, and PSAs/contractors convicted.*

2.47 **Audit has *recommended* that the Director of Housing should set up procedures for regular reporting of information which will help the HD management assess the effectiveness of HD measures to protect non-skilled workers.**

### **Response from the Administration**

2.48 **The Director of Housing agrees with the audit recommendation. He has said that the HD will continue to enhance its management information system to strengthen the effectiveness of control.**

### **PART 3: PROCUREMENT OF SERVICES AND CONTRACT ADMINISTRATION**

3.1 This PART examines HD procedures for the procurement of PSA services and the administration of PSA contracts.

#### **Maintenance of contractor list management system**

3.2 The HD has a well-established contractor list management system in place to support outsourcing. For property management, it maintains three Lists of PSAs/Contractors, namely PSA List, List of Cleansing Service Contractors, and List of Security Service Contractors. Normally, only selected PSAs/contractors on the appropriate List will be invited to tender.

3.3 For admission to the Lists of PSAs/Contractors, a service provider is required to demonstrate a proven record in property management/maintenance, sound financial capacity and appropriate organisation and resources. In addition, he should have:

- (a) no record of employment-related convictions under the relevant ordinances;
- (b) no demerit points obtained under the DPS; and
- (c) 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 service provider's status on the List of PSAs/Contractors is renewable annually. At the time of renewal, a service provider 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.

#### ***Guidelines to govern property management service providers***

3.4 The HD has issued the following sets of documents to govern the registration and administration of property management service providers:

- (a) Guide to Registration of Property Management Services Providers (hereinafter referred to as the "Guide for PSAs"); and

- (b) Property Services Company Administration Manual, September 2003 (PSC Manual).

These documents provide procedures and guidelines governing the registration, admission and obligations of PSAs, the selection and appointment of PSAs for tenders/contracts, and regulatory actions against non-compliant PSAs. The Contractors Review Committee (Property Services)(CRC(PS) — Note 20) of the HD advises and makes recommendations on the performance and capability of PSAs, and reviews and oversees the PSA monitoring system.

### *Grouping of PSAs*

3.5 Depending on working experience and financial capability, successful PSA applicants (Note 21) are admitted into Group PS1 or Group PS2. PSAs in Group PS1 are eligible to tender for PS1 contracts (Note 22). PSAs in Group PS2 are eligible to tender for both PS1 and PS2 contracts (Note 23). As at 6 July 2007, there were 28 PSAs (three under Group PS1, and 25 under Group PS2) on the PSA List.

### *Tender opportunities for PSAs*

3.6 To provide incentive to PSAs with good performance, the HD gives tender opportunities to them quarterly based on their performance on HA contracts. Competent PSAs with good track records are given more tender opportunities. This is worked out by grouping the PSAs into quartiles based on their past performance. PSAs in the top quartile are given all tendering opportunities, whereas PSAs in the lower quartiles are given a smaller number of or no tendering opportunities, depending on the number of tenders put in a batch.

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**Note 20:** *The CRC(PS) is one of the contractors review committees of the HD. It is chaired by an Assistant Director of the HD, with members including another Assistant Director and all regional Chief Managers of the EMD.*

**Note 21:** *A successful applicant admitted onto the PSA List is initially given probationary status. Upon satisfactory completion of a PSA contract or a minimum period of 12 months after commencement of the contract, the PSA may apply for confirmed status.*

**Note 22:** *PS1 contracts relate to those contracts that manage not more than 4,000 domestic units. The scope of PS1 contracts covers provision of all property management services, inclusive of tenancy management, security services, cleansing services and minor maintenance works.*

**Note 23:** *PS2 contracts relate to those contracts that manage more than 4,000 domestic units. The scope of PS2 contracts covers the scope of PS1 contracts and provision of project management services for major maintenance and improvement works.*

### ***Regulatory actions against PSAs***

3.7 According to the Guide for PSAs, the HD may take regulatory actions against a PSA who has failed to meet HD contractual requirements, has shown adverse performance, or has failed to meet the requirements for being retained on the PSA List. Such regulatory actions may include suspension from tendering for a period of time and downgrading (e.g. from confirmed status to probationary status, or from a higher to a lower Group of the PSA List).

### **Scope for further improvement**

3.8 The HD has established systems and procedures for procurement of outsourcing services and administration of its outsourcing contracts. In general, these systems and procedures are operating satisfactorily. Audit has, however, found a number of areas where further improvements can be made, including:

- (a) regulatory actions against PSAs with adverse performance (see paras. 3.9 to 3.13);
- (b) evaluation of past performance of tenderers (see paras. 3.16 to 3.20);
- (c) employment of sub-contractors by PSAs (see paras. 3.23 to 3.27); and
- (d) contractors' obligations before commencement of contracts (see paras. 3.30 to 3.40).

### **Regulatory actions against PSAs with adverse performance**

3.9 To ensure that only competent PSAs are allowed to tender for HA contracts, the HD may take regulatory actions against PSAs with adverse performance (see Note 9 to para. 2.16 and para. 3.7).

3.10 Before 29 April 2006, there was a requirement that a PSA who had obtained three consecutive adverse reports on performance in the same PSA contract would automatically be suspended from tendering for a six-month period. With effect from 29 April 2006, the HD introduced four levels of regulatory actions against PSAs with adverse reports on performance (see Table 3).



**Table 3**  
**Four levels of regulatory actions against PSAs**

Action level	Number of adverse reports obtained within four quarterly periods	Regulatory action
Level 1	1	To be debarred from tendering for 3 months (Note)
Level 2	2	To be debarred from tendering for 6 months (Note)
Level 3	3	To be debarred from tendering for 12 months (Note)
Level 4	4	To be demoted (e.g. from confirmed to probationary status) or removed from the PSA List

*Source: HD records*

*Note: The HD usually groups several tenders in a batch and lets out batches of tenders on a quarterly basis. The HD has required that a PSA with one or more adverse reports should be debarred from bidding in at least one batch of tenders. If there is no tendering exercise in the suspension period, the PSA will be debarred from bidding when the next batch of tenders is called for.*

When a PSA seriously underperforms or has shown persistently poor performance, the HD may consider taking more rigorous actions against him, such as taking over part of the PSA's work and removal from the PSA List.

3.11 Before taking any regulatory actions, the HD will consider taking a series of escalating steps, including interviewing the PSA, issuing warning letters, giving written warning of adverse reports, and interviewing the PSA (by the CRC(PS)).

### **Audit observations**

3.12 The various regulatory actions laid down by the HD (see para. 3.10) sometimes may not be able to provide sufficient deterrent effect, especially on those PSAs whose

workload has almost reached the List Capping Limit (Note 24) or who have no intention to bid for new contracts. Two examples (Cases 5 and 6) are shown in Table 4.

**Table 4**  
**PSAs with persistently poor performance**

	<b>Case 5</b>	<b>Case 6</b>
<b>Contractor</b>	Company X	Company Y
<b>Contract period</b>	1 September 2002 to 31 August 2005	1 May 2001 to 30 April 2004 (contract extended to 31 October 2004)
<b>Value of contract</b>	\$80 million	\$95 million
<b>Quarterly adverse reports on performance</b>	<b>10 consecutive adverse reports</b> over the period April 2003 to August 2005 due to poor performance on various aspects.	<b>7 consecutive adverse reports</b> during the period April 2003 to October 2004 due to poor performance on various aspects.
<b>Regulatory action taken</b>	Company X was suspended from tendering for the period 18 February 2004 to 23 May 2006.  In November 2004, the HD took over the project management of the building works in one estate managed by Company X under the contract.	Company Y was suspended from tendering for the period 18 February 2004 to 2 September 2005.
<b>Remarks</b>	Due to its persistently poor performance, Company X was not included in the PSA List which was created in 2004 by consolidating various old lists of PSAs.	As at mid-July 2007, Company Y was still included on the Group PS2 of the PSA List.

Source: HD records

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**Note 24:** *The List Capping Limit is the maximum set by the HD on the number of HA public rental domestic units managed by individual PSAs at any one time. As of August 2007, the limit was set at 70,000 domestic units.*

3.13 In Cases 5 and 6, the various regulatory actions, which included suspension from tendering and taking over part of the PSA's work, did not seem to be effective in compelling the PSAs to improve their performance. They continued to receive adverse reports until the end of the contracts. **Audit considers that, if the PSAs have shown persistently poor performance and/or have committed serious defaults, the HD needs to consider taking more rigorous regulatory actions (such as termination of contracts).** As contract termination will result in cessation of services provided by the PSAs, Audit considers that the HD needs to carefully assess the risk and ensure that proper contingency plans are in place (see paras. 5.12 to 5.15).

### **Audit recommendations**

3.14 **Audit has recommended that the Director of Housing should:**

- (a) **take more rigorous regulatory actions against PSAs with persistently poor performance; and**
- (b) **carefully assess the risk of service disruption and, if more rigorous regulatory actions need to be taken, ensure that proper contingency plans are in place (see also para. 5.16).**

### **Response from the Administration**

3.15 The **Director of Housing** agrees with the audit recommendations. He has said that:

- (a) the HD will review the existing strategy to deal with PSAs with persistently poor performance;
- (b) currently, the HD maintains a contingency mechanism by issuing instructions to serving PSAs of other contracts to take over the work of underperforming PSAs in case of need (see also para. 5.17(a)); and
- (c) the HD has an established mechanism and procedures, which have been operating effectively, to provide incentives to PSAs for good performance and for regulatory actions against PSAs with adverse performance.

### **Evaluation of past performance of tenderers**

3.16 To provide incentive for good performance, the HD allocates tender opportunities to PSAs based on their contract performance (see para. 3.6). Since October 2001, the HD has adopted a two-envelope system for tender evaluation.

Information submitted in the first envelope is used for the non-financial assessment, based on the tenderer's past performance and its management proposal. The second envelope contains a financial proposal, which will only be opened if the non-financial assessment meets the specified minimum requirements. Unless there are strong overriding factors, the tender with the highest combined score will be awarded the contract.

3.17 In June 2007, the HD revised the scoring scheme for PSA tender evaluation by increasing the weighting for past performance which was considered "a solid objective evidence of the contractor's achievement in the past". The scoring scheme is shown in Table 5.

**Table 5**  
**Scoring scheme for tender evaluation**

Assessment criteria	Weighting	
	(before June 2007)	(since June 2007)
(a) <i>Financial score</i>	48%	45%
(b) <i>Non-financial score</i>		
Past performance (Note)	<b>36%</b>	<b>50%</b>
Management proposal	<u>16%</u>	<u>5%</u>
	52%	55%
<b>Total</b>	<b>100%</b>	<b>100%</b>

Source: HD records

Note: In assessing the past performance of PSAs, the HD adopts a three-pronged approach in which assessment scores are obtained from in-house staff, tenants and members of the Estate Management Advisory Committee (see para. 4.5).

3.18 As a first step in considering the tenders, the HD will check the tenderers' previous conviction and DPS records (see para. 2.2(d)). It will also take into account the tenderers' current workloads and available capacity.

### **Audit observations**

3.19 As shown in Table 5, the HD has attached considerable weighting to the past performance of tenderers in tender evaluation. It takes into account the number of DNs under the DPS that have been issued to the tenderer and will not consider his bids if he has accumulated three demerit points. Audit has however noted that the HD does not include, as an assessment criterion, the number of DNs issued under the DPS and the number of DNs issued (without demerit points given) in its scoring scheme.

3.20 In this connection, the FSTB has promulgated that:

- (a) when issuing each DN under the DPS, government departments should warn the defaulting contractor that the demerit points will be taken into account by the Government in tender evaluation of the contractor's bids for service contracts that rely heavily on the deployment of non-skilled workers and may result in the contractor failing the tender assessment (FC No. 3/2004 refers); and
- (b) government departments should take into account such DNs which do not attract demerit points when the contractor concerned bids for future tenders (see para. 1(c) at Appendix B).

Although the HD is not obliged to comply with the Government Financial Circulars, Audit considers that it should follow the Government's good practices as far as possible.

### **Audit recommendation**

3.21 **Audit has recommended that the Director of Housing should revise the scoring scheme for PSA tender evaluation to include, as an assessment criterion, the number of DNs issued (with or without demerit points given) in assessing tenderers' past performance.**

### **Response from the Administration**

3.22 The **Director of Housing** agrees with the audit recommendation. He has said that:

- (a) the HD will review the scoring scheme with a view to improving the system; and
- (b) at the time of evaluating the past performance of tenderers, the HD has already stated the number of DNs issued in the tender assessment reports.

## **Employment of sub-contractors by property services agents**

3.23 PSAs are allowed to have one tier of sub-contracting for cleansing and security services they provide for the estates they manage (i.e. the sub-contractors are not allowed to further sub-contract their services). According to the PSC Manual, PSAs were required to furnish the HD with full particulars of all sub-contractors to be employed and obtain the HD's prior consent before sub-contracting. In considering such requests from PSAs, the HD should take into account the sub-contractors' conviction records and demerit points in relation to employment of workers before granting the approvals. Since May 2006, the HD has tightened the control by requiring PSAs to employ sub-contractors who should be on the HA Lists of PSAs/Contractors. This applies to contracts for which tenders were invited on or after 1 May 2006.

3.24 According to the PSA contracts with the HD:

- (a) only one tier of sub-contracting on cleansing and security services is allowed, and the sub-contractors employed must have two years' experience in the respective field of services;
- (b) the PSA has to supervise the sub-contractors engaged and shall be solely responsible for their acts, defaults and neglect;
- (c) where, in the opinion of the contract administrator (CA — Note 25), the sub-contractor has performed unsatisfactorily or has failed to comply with the contractual requirements, the CA may at his absolute discretion require the PSA to remove the sub-contractor from the contract; and
- (d) for contracts with tenders invited on or after 1 May 2006, where a sub-contractor has obtained one or more convictions under the relevant ordinances, the CA may at his absolute discretion require the PSA to remove the sub-contractor from the contract.

## **Audit observations**

### *Approval of the appointment of sub-contractors*

3.25 As at July 2007, there were 116 sub-contractors employed by the PSAs in 109 PRH estates. Of these 116 sub-contractors, 63 were on the HA Lists of

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**Note 25:** *The CA of a PSA contract may be a Chief Manager or a Senior PSM of the HD appointed to administer the contract.*

PSAs/Contractors, but 53 were not as they were providing services under contracts, the tenders for which had been invited before 1 May 2006.

3.26 In July 2007, Audit conducted a review to ascertain whether the PSAs had obtained HD approvals for sub-contracting their security and cleansing services. Audit examined the current PSA contracts that related to 20 estates and that had involved the appointment of 32 sub-contractors. The results were as follows:

- (a) in 21 cases, the PSAs had submitted their applications seeking the HD's prior approvals **before** the commencement of the sub-contracting services. Of these 21 cases, Audit noted that:
  - (i) in 6 cases, the HD notified the PSAs of the approvals in writing before the services commenced;
  - (ii) in 1 case, the HD's approval in writing was given three days after the services commenced (Note 26);
  - (iii) in 11 cases, instead of notifying the PSAs of the approvals in writing, HD officers only recorded in internal minutes of HD files that they noted the appointment of sub-contractors; and
  - (iv) in 3 cases, there was no evidence that HD officers had taken action to review the applications;
- (b) among the 21 cases in (a) above, there were 4 cases that related to PSA contracts, the tenders of which were invited after 1 May 2006, with sub-contracting services provided. In 3 of these 4 cases, there was no evidence that the HD had checked the sub-contractors' conviction and demerit point records;
- (c) in 7 cases, the PSAs submitted their applications for seeking HD approvals **after** the commencement of the sub-contracting services. In two cases, the applications were submitted more than one month after the services commenced; and
- (d) in 4 cases, there was no documentary evidence to show that the PSAs had submitted any application seeking HD approval for the sub-contracting services.

As the audit review covered the PSA contracts of 20 estates only, the HD needs to conduct a full review and take action to rectify all the irregularities identified.

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**Note 26:** *In this case, the PSA submitted its application seeking HD approval one day before the commencement of the sub-contracting services.*

3.27 PSAs are held responsible for the performance of the sub-contractors and are liable for any breaches by their sub-contractors. PSAs may be issued with DNs that attract demerit points, even though the breaches are committed by the sub-contractors. The review of the protection of non-skilled workers engaged in outsourcing contracts in PART 2 has indicated that many of the suspected employment-related irregular cases for PSA contracts related to sub-contractors (Cases 1 and 2, at Appendices C and D respectively, are examples). Given that both PSAs and sub-contractors are business partners working for the HD, Audit considers that the HD needs to step up its monitoring of the appointment and performance of the sub-contractors and enforce its control procedures.

### **Audit recommendations**

- 3.28 **Audit has recommended that the Director of Housing should:**
- (a) **conduct a full review of the appointment of sub-contractors and take action to rectify any irregularities identified; and**
  - (b) **step up the HD's monitoring of the appointment and performance of sub-contractors and enforce the HD control procedures.**

### **Response from the Administration**

- 3.29 The **Director of Housing** agrees with the audit recommendations. He has said that:
- (a) the HD has conducted a full review of the appointment of sub-contractors. No further irregularity has been identified;
  - (b) the HD will step up its monitoring of the appointment and performance of sub-contractors on a continuous basis; and
  - (c) since 1 May 2006, PSAs have been required to employ sub-contractors on HA approved lists. Through additional efforts on list management, the control of sub-contractors has become more effective.

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

3.30 According to the conditions of contract, before a contract commences, a PSA is required to meet certain requirements, such as the submission of a performance bond and the taking out of proper insurance cover. The CA of the HD has to ensure that the PSA has complied with these requirements.



## **Audit observations**

3.31 Audit examined eight PSA contracts (see para. 4.11) and found that there was room for improvement (see paras. 3.32 to 3.40).

### ***Performance bond***

3.32 Under the PSA contract, the successful tenderer is required to submit a performance bond (or provide a bank/insurance company guarantee in lieu of performance bond) to the HA as security for due performance of the contract within the contract period. The amount of the bond (or guarantee) is normally set at 5% of the value of the contract as stated in the tender document. Audit found that:

- (a) in five of the eight contracts examined, the amounts of performance bonds provided by PSAs were not equal to 5% of the value of the contracts, ranging from a shortfall of \$2 million to an excess of \$500,000; and
- (b) in one contract, up to the time of audit fieldwork (April 2007), HD staff did not request the PSA to submit the performance bond although the contract had commenced since April 2006. On Audit's enquiries in April 2007, the HD staff immediately followed up the case with the PSA. It was however found that the amount of bank guarantee eventually provided by the PSA had still fallen short of the 5% level by \$200,000. This was rectified in June 2007 after the PSA increased the amount of bank guarantee.

3.33 Audit is concerned that there were contracts with performance bonds which were at variance with the contract requirements. As the audit review covers eight PSA contracts only, the HD needs to conduct a full check to ensure that the amounts of performance bonds provided by PSAs are correct.

### ***Insurance cover***

3.34 Before the commencement of a contract, the PSA had to take out proper insurance cover as required by the contract. Three types of insurance cover were required, namely public liability, money (Note 27) and fidelity guarantee (Note 28) insurances. The

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**Note 27:** *Money insurance covers losses of money at estate offices and money in transit due to risks such as burglary, robbery, theft or other accidental loss or damage.*

**Note 28:** *Fidelity guarantee insurance covers financial loss due to the dishonest acts of PSAs' employees.*

HD had issued guidelines (in the form of Financial Instructions) on the minimum terms and coverage of insurance policies required. Once the PSAs confirmed that the insurance cover requirement had been complied with, HD staff would conduct compliance checks. With effect from 1 July 2007, the HD has adopted a revised arrangement of procuring the public liability insurance for all PSA contracts direct.

*Delays in taking out insurance*

3.35 Audit examination of the eight contracts (in para. 3.31) revealed that, in five cases, the PSAs took out insurance after the commencement of contracts. The delays ranged from 11 to 58 days. Delays in taking out insurance might put the PSAs (and the HA) at risk. The HD needs to take tightened measures to avoid such delays.

*Minimum insurance terms and coverage not met*

3.36 For the eight contracts examined, Audit compared the terms and coverage of the money and fidelity guarantee insurance policies arranged by the PSAs with the minimum requirements laid down by the HD. Audit noted that some of the HD's requirements had not been included in the insurance policies arranged by the PSAs. Examples are shown in Table 6.

Table 6

## Non-compliance with HD minimum insurance requirements

HD minimum requirements	Number of insurance policies not in compliance  (out of 8 policies examined)
<p><i>The money insurance policy should include the following extensions:</i></p> <ul style="list-style-type: none"> <li>— damage to the premises, safe, vault of the insured caused by burglary, robbery, theft or attempt thereat;</li> <li>— accidental loss or damage caused by riot, strike and civil commotion; and</li> <li>— limit of insurance should automatically be doubled during public holidays and the day immediately following public holidays.</li> </ul>	<p style="text-align: center;">4</p> <p style="text-align: center;">5</p> <p style="text-align: center;">2</p>
<p><i>The fidelity guarantee insurance policy should include the following extensions:</i></p> <ul style="list-style-type: none"> <li>— discovery period (Note 1);</li> <li>— automatic reinstatement of limit (Note 2); and</li> <li>— 30-day notice given by the insurer to cancel the policy with a pro rata refund of premium.</li> </ul>	<p style="text-align: center;">2</p> <p style="text-align: center;">2</p> <p style="text-align: center;">2</p>

Source: HD records

Note 1: This refers to insurance cover for loss discovered within six months after expiry of policy or termination of employment of the fraudulent employee.

Note 2: The amount of insurance reduced by payment of loss shall be automatically reinstated as effective from the date of the loss. The insured undertakes to pay pro-rata additional premium for such reinstatement.

3.37 Audit further noted that, in two of the eight fidelity guarantee policies arranged by the PSAs, there was a special exclusion clause to the effect that the policies would not cover loss and damages due to falsification of records. The HD needs to consider whether this exclusion clause is acceptable.

3.38 As the audit review covers a sample of eight PSA contracts only, the HD needs to conduct a full review and take action to rectify the irregularities identified.

*Taking out of employees' compensation insurance*

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

3.40 To ensure that the PSAs/contractors have valid employees' compensation insurance policies, the HD has required the cleansing and security services contractors in directly-managed estates to submit the insurance policies and the premium receipts to the estate staff for checking, but no similar checking is required for PSA contracts. Audit considers that the HD should consider requiring its PSAs to submit copies of employees' compensation insurance policies for checking.

**Audit recommendations**

3.41 **Audit has recommended that the Director of Housing should:**

- (a) **conduct a full check to ensure that the amounts of performance bonds provided by PSAs are correct;**
- (b) **take measures to ensure that PSAs have valid public liability, money and fidelity guarantee insurance policies before the commencement of contracts;**
- (c) **conduct a full check of the terms and coverage of all existing money and fidelity guarantee insurance policies taken out by the PSAs and rectify any irregularities found;**
- (d) **issue guidelines to assist HD staff to check the performance bonds and insurance policies provided by PSAs in future outsourcing contracts; and**
- (e) **consider requiring PSAs to submit copies of employees' compensation insurance policies to the HD for checking.**

## Response from the Administration

3.42 The **Director of Housing** agrees with the audit recommendations. He has said that:

- (a) the requirement of a performance bond is one of the risk management measures for due performance of the contract. The HD has conducted a thorough check and found that all contractors have provided bonds at the amounts specified in the contracts. However, some of the specified bond amount requirements deviated from the usual value of 5% contract sum due to rounding up or down of the contract value. Other variances arose from last-minute changes in contract scope before tendering. The HD will strengthen its system to ensure an adequate amount of bond, equivalent to 5% of the contract value, be clearly specified in all future contracts;
- (b) the HD will ensure that PSAs have valid insurance policies to cover their performance risks in taking up HA contracts. Guidelines for staff will be re-circulated; and
- (c) the HD will review the requirement of checking employees' compensation insurance policies.

## **PART 4: MONITORING THE PERFORMANCE OF PROPERTY SERVICES AGENTS**

4.1 This PART examines the adequacy of HD monitoring of the performance of PSAs.

### **Scope of estate management services**

4.2 PSAs are normally required to undertake full-scale estate management functions including cleansing and security services, upkeep of estate facilities, rent collection, minor repairs, maintenance and improvement works (Note 29) as well as advisory tenancy services. They establish management offices in the estates to maintain contact with the tenants and to provide front-line customer services. They act as HA agents responsible for disseminating tenancy information, answering enquiries, receiving complaints, distributing forms and publicity materials, collecting estate management statistics and returns, and promoting community activities.

### **Responsibilities of the Housing Authority**

4.3 Notwithstanding the outsourcing of the management of PRH estates, the HA is still responsible for the overall management of the estates and the supervision of PSAs. It also retains responsibility for some functions which are not delegated to PSAs, such as:

- (a) handling of special tenancy management issues (e.g. household splitting, transfer, addition and deletion of residing family members);
- (b) actions requiring the exercise of statutory powers (e.g. clearance of illegal hawkers, eviction of tenants and handling of tenant appeals);
- (c) administration of rent policies; and
- (d) explanation of housing policies to tenants.

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**Note 29:** *PSAs are required to seek HD's prior approval for expenditure to be spent on major repairs and planned improvement programmes in the estates.*

## Property Service Administration Unit

4.4 The EMD of the HD oversees five geographical regions, each headed by a Chief Manager (see Appendix A). Each region has a Property Service Administration Unit (PSAU), which is responsible for overseeing the administration and performance monitoring of PSA contracts. Each PSAU is headed by a Senior PSM, underpinned by three to five monitoring teams. Each monitoring team, comprising seven to nine multi-disciplinary members of PSMs and technical staff, oversees three to nine estates managed by PSAs.

## Assessing Property Services Agents' performance

4.5 In assessing the past performance of PSAs, the HD adopts a three-pronged approach in which assessment scores are obtained from in-house staff, tenants and members of the Estate Management Advisory Committee (EMAC — Note 30). The overall assessment score for the performance of a PSA (which is compiled on a quarterly basis) has four components:

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**Note 30:** *Each EMAC is chaired by a PSM (or HM in case of a directly-managed estate) with membership comprising the Chairman or an elected representative from each Mutual Aid Committee in the estate, and District Council Member(s). The EMAC is to advise on estate management matters and to appraise the performance of the PSA.*

<b>Component</b>	<b>Weighting</b>
<p><b><i>HD Assessment Score:</i></b>                      This is based on assessments made by PSAUs (Note 31) through monthly inspections in each estate (see paras. 4.9 and 4.10).</p>	40%
<p><b><i>Management Assessment Score:</i></b>                      This is based on assessments made by the CA on four aspects, namely, surprise check, overall competence, crisis management and head office support.</p>	20%
<p><b><i>EMAC Assessment Score:</i></b>                      This is based on assessments made by EMAC members through questionnaire surveys (see para. 4.32).</p>	10%
<p><b><i>Tenant Assessment Score:</i></b>                      This is based on assessments made by tenants through telephone surveys.</p>	30%
<b>Total</b>	<b>100%</b>

4.6 The CA of the HD monitors the performance of PSAs which is reviewed at quarterly meetings of the CRC(PS). Usually, at the meetings, the five PSAs with the lowest performance scores in a three-month period and those PSAs with performance reports bearing particularly low assessment scores for individual aspects are reviewed. The CRC(PS) will determine whether the performance of a PSA should be rated “Adverse” and determine appropriate regulatory actions (see para. 3.7).

4.7 The procedures for monitoring and assessing the PSAs’ performance are outlined in the PSC Manual (see para. 3.4(b)), supplemented by Best Practice Notes issued from time to time by the EMD (hereinafter referred to as the Administration Guidelines).

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**Note 31:** *In considering past performance, the HD has used over 60 assessment criteria which include checking of vacant flats, flat-to-flat inspection of the conditions of premises, clearing blocked drains, washing common areas of estates, follow-up of tenants owing rents in arrears, replies to tenants’ written complaints/enquiries, etc. Where tenancy management is involved, the District Tenancy Management Office of the HD also takes part in monitoring the performance of PSAs.*



4.8 Audit found a number of areas where further improvements could be made to HD procedures for monitoring and assessing the performance of PSAs, including:

- (a) monthly inspections performed by PSAUs (see paras. 4.9 to 4.17);
- (b) surprise checks by PSAUs (see paras. 4.20 to 4.25);
- (c) supervisory review of the inspection work (see paras. 4.28 to 4.29);
- (d) assessment by EMAC members (see paras. 4.32 to 4.33); and
- (e) control of illegal hawking activities (see paras. 4.36 to 4.50).

### **Monthly inspections performed by Property Service Administration Units**

4.9 The monitoring teams of the PSAUs carry out scheduled monthly inspections in each estate and assess PSA performance with reference to their service pledges (Note 32) in the contracts. The assessment covers three disciplines, namely estate management, building works and building services, with weightings of 55%, 25% and 20% respectively.

4.10 Depending on PSA performance and the service pledges, scores ranging from -5 to +8 are given to each service item in the assessment sheets (the Scoring Table adopted by the HD is reproduced at Appendix G). The inspection findings are summarised on the assessment sheets, and the PSA will be issued a non-compliance report for corrective action. The PSA are also advised of his strengths and weaknesses found in the inspection, and will be allowed to clarify and/or appeal on the findings and to give comments on the non-compliance report.

### **Audit observations**

4.11 Audit reviewed the monthly inspections conducted by PSAUs in four regional offices for the period June 2006 to May 2007. Eight estates (two from each of the four regional offices) were selected for review. A total of eight PSA contracts were examined. Audit notes that there is room for improvement in the conduct of the monthly inspections by the monitoring teams, as detailed in paragraphs 4.12 to 4.17.

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**Note 32:** *Normally, the HD standards are taken as the service pledges for individual service items for performance assessment. However, when a PSA has offered standards higher than the HD's in the outsourcing contracts, higher service pledges will be used.*

### *Non-compliance with Administration Guidelines*

4.12 The HD Administration Guidelines have set out the procedures for assessing PSA performance. Audit noted that some monitoring teams did not comply with the Guidelines. Examples of non-compliance are shown at Appendix H.

### *Reporting of inspection findings*

4.13 Audit noted that, in the absence of HD guidelines on the reporting and documentation requirements, there were inconsistencies in the reporting of inspection findings among the monitoring teams, as follows:

- (a) some monitoring teams gave explanations on the assessment sheets stating why high or low scores were given to individual service items, whereas some only provided explanations on specific service items with low scores; and
- (b) some monitoring teams supported their findings with evidence (such as photographs and relevant records) whereas some did not.

### *Monitoring of the Tenant Marking Scheme*

4.14 Since August 2003, the HA has launched a Marking Scheme for Estate Management Enforcement (Tenant Marking Scheme — Note 33) to strengthen its enforcement action against tenants committing hygiene-related offences in PRH estates. PSAs are required under the outsourcing contracts to deal with all matters relating to the enforcement of the Tenant Marking Scheme. The monitoring teams of the PSAUs monitor PSAs' performance on enforcement of the Tenant Marking Scheme through monthly inspections.

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**Note 33:** *The misdeeds covered by the Tenant Marking Scheme are categorised into four categories depending on the seriousness of their consequences and potential nuisance to the living environment. They include Categories A (e.g. drying clothes in public areas), B (e.g. littering), C (e.g. spitting in public areas) and D (e.g. throwing objects from height that may cause danger or personal injury) misdeeds. Misdeeds under Categories A, B, C and D carry 3, 5, 7 and 15 demerit points respectively. The accumulation of 16 demerit points or more within two years will lead to termination of tenancy.*

4.15 In April 2006, the HD issued a Best Practice Note which stated, among other things, that the enforcement of the Tenant Marking Scheme was one of the common issues (Note 34) that PSAs were not performing well. The HD reminded all supervisors to draw the attention of staff working in PSAUs about the HD's ultimate responsibility for overall management of all PRH estates and to take appropriate actions for any non-performance by PSAs.

4.16 Audit examination of the monitoring teams' monthly inspection reports indicated that, with the exception of one estate, the monitoring teams did not give any marks to the PSAs for those service items relating to PSA enforcement of the Tenant Marking Scheme (Note 35). These service items were usually marked as "Not applicable" on the assessment sheets. A service item marked as "Not applicable" on the assessment sheet would not count in the calculation of the assessment score. It appears that some monitoring teams did not make an appropriate assessment of PSA performance on the enforcement of the Tenant Marking Scheme, although a few of them reported in their monthly inspections that they noted misdeeds committed by the tenants (such as drying laundry in public areas, and obstructing corridors/staircases with bicycles/carpets).

4.17 Enforcement of the Tenant Marking Scheme is important for the proper management of the PRH estates. The HD needs to step up its efforts to monitor PSA enforcement of the Tenant Marking Scheme. In particular, it needs to remind the monitoring teams to properly assess the PSA performance in this aspect. It may also consider ascertaining the difficulties which the PSAs have encountered in enforcing the Tenant Marking Scheme.

### **Audit recommendations**

4.18 **Audit has recommended that the Director of Housing should:**

*Non-compliance with Administration Guidelines*

- (a) **take steps to ensure that the monitoring teams comply with the Administration Guidelines when assessing the performance of PSAs;**

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**Note 34:** *Other common issues include hawker problems, clearance of abandoned bicycles, notice-to-quit and penalty related actions, and obstructions.*

**Note 35:** *On a few occasions, the monitoring teams gave certain marks to the PSAs for a few individual service items (e.g. when there was evidence that the PSAs had taken enforcement actions, such as the issue of notification letters for rectification of misdeeds and the issue of warnings).*

*Reporting of inspection findings*

- (b) **provide guidelines on the reporting and documentation requirements in the monthly inspections performed by monitoring teams;**

*Monitoring of the Tenant Marking Scheme*

- (c) **step up HD efforts to monitor PSA enforcement of the Tenant Marking Scheme;**
- (d) **remind the monitoring teams to properly assess PSA performance in the enforcement of the Tenant Marking Scheme; and**
- (e) **ascertain the difficulties which the PSAs have encountered in enforcing the Tenant Marking Scheme.**

**Response from the Administration**

4.19 The **Director of Housing** agrees with the audit recommendations. He has said that:

- (a) the HD will review its existing arrangements and strengthen the monitoring of PSA performance by PSAUs; and
- (b) enforcement of the Tenant Marking Scheme in PRH estates has always been one of HA key business objectives (Note 36). To reinforce the momentum for performing the tasks effectively in PSA-managed estates, the HD will arrange more briefing sessions with PSAs and front-line staff of PSAUs to enhance their knowledge of enforcing the Tenant Marking Scheme and in maintaining proper records for performance assessment.

**Surprise checks by Property Service Administration Units**

4.20 According to the Administration Guidelines, the monitoring teams of the PSAUs are expected to carry out surprise checks for each PSA-managed estate between monthly inspections. The Guidelines state that:

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**Note 36:** *From 1 August 2003 to 19 September 2007, the total number of cases with demerit points allotted under the Tenant Marking Scheme was 6,507. Of these cases, 3,177 (49%) came from PSA-managed estates and 3,330 (51%) from HD directly-managed estates.*

- (a) for each estate, at least one surprise check should be carried out each month for each discipline (i.e. estate management, building works and building services). The surprise checks may be conducted based on assessment items selected from the monthly inspection assessment sheets; and
- (b) PSMs should exercise professional judgement to determine the areas of focus for each surprise check. In doing so, the factors to be considered include the unique characteristics of the estate, strengths/weaknesses of the PSA, complaints from tenants/concerned groups, and public sentiment at a specific point of time.

### **Audit observations**

#### ***Need for a surprise check plan***

4.21 Surprise checks need to be carefully planned to ensure that all potential risk areas are identified and covered in the inspections. It would be a good practice to have a surprise check plan prepared beforehand to focus on the areas for inspection.

4.22 Audit noted that with the exception of one team, all monitoring teams in the regional PSAUs under review did not prepare surprise check plans. This is less than satisfactory. For better planning and monitoring, the HD needs to require the monitoring teams to prepare surprise check plans, which should be submitted to their supervisors for prior approval.

#### ***Surprise checks not conducted as frequently as required***

4.23 The Administration Guidelines have also stated that, for each estate, at least one surprise check should be carried out each month for each discipline (see para. 4.20(a)). Audit however noted that, in two estates, the surprise checks had not been carried out as frequently as required (see Table 7 for details).

Table 7

**Extent of achieving the required frequency of surprise checks  
(June 2006 to May 2007)**

Estate	One surprise check each month					
	Estate Management		Building works		Building services	
	Achieved (%)	Not achieved (%)	Achieved (%)	Not achieved (%)	Achieved (%)	Not achieved (%)
A	100%	—	75%	25%	75%	25%
B	92%	8%	100%	—	100%	—

Source: HD records

***Reporting of surprise checks***

4.24 After each surprise check, the monitoring team is expected to prepare a surprise check report. Audit noted that there were inconsistencies in reporting the results of the surprise checks. Some monitoring teams reported in detail the results (whether satisfactory or not) of all areas covered in the inspection. Some teams only recorded the results for the unsatisfactory areas. **Audit considers that the provision of more detailed information would help the supervisors assess the adequacy of work done in the surprise checks. The HD may consider asking all monitoring teams to follow this practice.**

***Need to re-arrange work schedules***

4.25 Audit noted that the monitoring teams normally conducted surprise checks in the last 10 days of each month. Upon Audit's enquiries in April 2007, the HD staff explained that they had such a work pattern because they usually conducted their monthly inspections in the first half of each month, and would follow up the observations in the second half of the month in the surprise checks. **Audit considers that conducting surprise checks in such a time pattern is not desirable. The HD needs to re-arrange the work schedules of its staff.**

## **Audit recommendations**

4.26 **Audit has recommended that the Director of Housing should:**

### *Need for a surprise check plan*

- (a) **adopt the good practice of requiring the monitoring teams to prepare surprise check plans which should be submitted to their supervisors for prior approval;**

### *Surprise checks not conducted as frequently as required*

- (b) **remind HD staff that they should conduct surprise checks as frequently as required by the Administration Guidelines;**

### *Reporting of surprise checks*

- (c) **consider requiring all monitoring teams to report in detail the results of surprise checks; and**

### *Need to re-arrange work schedules*

- (d) **request HD staff to re-arrange their work schedules so that there is no fixed time pattern in carrying out surprise checks.**

## **Response from the Administration**

4.27 The **Director of Housing** agrees with the audit recommendations. He has said that:

- (a) the HD will review the existing arrangements in conducting surprise checks by PSAUs; and
- (b) new guidelines were issued to staff on 23 October 2007.

## **Supervisory review of the inspection work**

4.28 For quality assurance, supervisors of the monitoring teams (usually at the level of Senior PSMs) should regularly review the teams' work to ensure that they carry out proper monthly inspections and surprise checks in accordance with the Administration Guidelines.

## **Audit observations and recommendations**

- 4.29 Audit however noted that:
- (a) the HD did not have any guidelines on the requirement for supervisory checks to be conducted on the monitoring teams' work;
  - (b) in the four regional offices visited by Audit, there was no evidence that the Senior PSMs had reviewed the monthly inspection/surprise check reports completed by the monitoring teams; and
  - (c) the Senior PSMs of the four regional offices admitted that they had conducted regular site visits. However, they did not keep formal records of such visits.
- 4.30 **Audit has recommended that the Director of Housing should:**
- (a) **provide guidelines on the supervisory controls required over the inspection work conducted by the monitoring teams; and**
  - (b) **remind the HD staff to keep proper records of their supervisory checks, including site visits.**

## **Response from the Administration**

4.31 The **Director of Housing** agrees with the audit recommendations. He has said that new guidelines were issued to staff on 23 October 2007.

## **Assessment by Estate Management Advisory Committee members**

4.32 Once every two months, a PSA is required to distribute questionnaires to the members of the EMAC for performance assessment purpose. Some members of the EMAC may return the completed questionnaires direct to the HD. Others may choose to return them to the HD via the PSA. To prevent any unauthorised alteration on the completed questionnaires and to avoid any conflict of interest arising from the relationship between the EMAC members and the PSA, the Administration Guidelines stipulate that:

- (a) blank questionnaires to be issued to EMAC members have to be signed by a PSM of the HD; and
- (b) in completing the questionnaires, each EMAC member is required to declare any conflict of interest he may have with the PSA. The PSM will disregard any assessment without such declaration.



## **Audit observations and recommendations**

4.33 Audit's examination of the assessments made by EMAC members revealed that there were inadequacies in the system, as follows:

- (a) in two (out of eight) estates examined, some questionnaires issued to EMAC members were not signed by PSMs (or other HD officers) in accordance with the Administration Guidelines;
- (b) many EMAC members in the same two estates had not signed on the completed questionnaires and/or the declaration forms;
- (c) in all eight estates examined, many EMAC members did not indicate on the declaration forms whether they had any conflict of interest with the PSAs; and
- (d) in one estate, the PSAU accepted questionnaires completed in pencil.

4.34 **Audit has recommended that the Director of Housing should tighten controls over the collection of assessments on PSA performance from EMAC members. In particular, guidelines on how to complete the questionnaires properly should be provided to the EMAC members.**

## **Response from the Administration**

4.35 The **Director of Housing** agrees with the audit recommendations. He has said that new guidelines were issued to staff on 23 October 2007.

## **Control of illegal hawking activities**

4.36 To tackle the hawker problems in PRH estates, the HD set up a Mobile Operations Unit (MOU), comprising some 200 staff, to carry out anti-hawking operations. To step up enforcement actions against illegal cooked food hawkers, the HD also conducted raids at hawker blackspots jointly with the Hong Kong Police Force (Police) and the FEHD.

4.37 Under the outsourcing contracts, PSAs are required to take effective actions to maintain an estate free from hawkers, to prevent hawking activities and to clear hawkers in the vicinity of the estate. They are also required to inform the HD of any hawking activities within the estate. Effectiveness in combating hawking activities is one of the indicators for appraising the performance of PSAs.

4.38 Under the existing arrangements, when PSAs have difficulties in tackling the hawking problems in their estates, the PSAU staff may enlist the help of the MOU to conduct anti-hawking operations. In 2005-06 and 2006-07, the MOU conducted about 7,000 anti-hawking operations in PSA-managed estates, and made some 400 arrests and 2,200 seizures.

## **Audit observations**

### ***Reporting of hawking activities by PSAs***

4.39 Following a public complaint in November 2006 of the hygienic and obstruction problems caused by hawking activities in one PSA-managed estate, HD senior management was concerned about the inadequacies of the PSAs in tackling the problem. In December 2006, the HD issued a letter to all PSAs reminding them of the need to keep the estate situation under close surveillance, urging them to remind their staff to be extra vigilant so that any hawking activities detected could be stopped immediately. The PSAs were also reminded to report promptly to the PSAUs accurate and precise site information on hawking activities found and to keep the PSAUs informed of the actions taken and future actions to be taken.

4.40 After the issue of HD letter in December 2006, up to mid-July 2007 PSAs of only 18 estates reported to the PSAUs of hawking activities in their estates. PSAs of the other 97 estates did not. Nevertheless, Audit noted from other sources (e.g. MOU intelligence) that there were hawking activities in these other estates. Examples are shown in Table 8.

Table 8

**Hawking activities not reported by PSAs  
(14 December 2006 to 11 July 2007)**

Estate	Hawking activities
Long Ping	The MOU found that 5 hawker stalls were selling cooked food on a visit in June 2007.
Shek Lei (I)	The MOU found that 2 hawker stalls were selling cooked food on a visit in March 2007, and 2 hawker stalls were selling sundry items on another visit in June 2007.
Fu Shin	On 21 May 2007, the Chairman of the Incorporated Owners of the estate reported that one hawker stall was selling cooked food there.
Sheung Tak	The MOU found that one hawker stall was selling cooked food on two visits, one in March 2007 and another in June 2007.
Kwai Shing East	The MOU found that 2 hawker stalls were selling sundry items on a visit in March 2007.
Tung Tau (I)	In March 2007, on a visit to the estate, the MOU found that 2 hawker stalls were selling sundry items.

Source: HD records

4.41 Information on hawking activities in the PSA-managed estates is useful to the PSAU for monitoring the seriousness of the hawker problem. However, PSAs may be discouraged from reporting hawking activities, fearing that it may affect their performance rating, or that the HD would take cost-recovery action (see para. 4.48). Audit considers that the HD needs to take action to ensure that PSAs report to the HD in a timely manner hawking activities in the estates.

4.42 To ensure that the information reported by PSAs is accurate and complete, PSAU staff also need to conduct independent test checks, including surprise visits and matching the information reported by PSAs with the results of PSAU monthly inspections and MOU intelligence. As many hawking activities, especially selling of cooked food, are carried out in the evening, night time checks may need to be conducted.

*Central record of hawking problems in PSA-managed estates*

4.43 Information on hawking activities reported by PSAs is kept at the five PSAUs. There is no central record of the hawking activities in all PSA-managed estates. As a result, information retrieval/sharing is difficult. In this connection, Audit notes that the MOU maintains a comprehensive record of hawking activities (Note 37) for directly-managed estates only. Such information relating to PSA-managed estates is not kept. On Audit's enquiries in July 2007, the MOU advised that once estates were outsourced to PSAs for property management, it ceased to regularly monitor the hawking activities in these estates. The MOU would only conduct anti-hawking operations at PSA-managed estates upon receiving requests from the PSAUs. Where appropriate, the HD would seek to recover the cost of such operations from the PSA (see para. 4.48). **To facilitate effective monitoring of the hawker problem, Audit considers it desirable for the HD to keep a proper central record of hawking activities in all PSA-managed estates. Reference may be made to the record kept by the MOU for directly-managed estates.**

*Effective control of hawking activities*

4.44 HD staff are empowered by law to take enforcement actions against illegal hawking in estates (Note 38). PSA staff do not have such powers. Hence, when PSA staff noted hawking activities in their estate, they would normally only persuade the hawkers to leave (sometimes, they might expel the hawkers). These actions were not always effective. Very often, the hawkers left the spot for a short while and return when PSA staff were not present. Case 7 is a typical example.

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**Note 37:** *The record kept by the MOU shows hawker information by estates, including the number of hawker stalls in operation, whether hawking activities are carried out during or after office hours, and whether cooked food is involved.*

**Note 38:** *HD staff are empowered under section 24 of the Housing Ordinance to tackle the hawker problem in estates. In 1987 and 1995, the then Regional Council and Urban Council agreed to delegate the power under the Public Health and Municipal Services Ordinance (Cap. 132) to HD staff to arrest hawkers, seize and dispose of their paraphernalia within estates and areas under HA control.*

### Case 7

#### Ineffective actions against hawking activities in an estate

Based on the “Record for Action Against Hawkers” kept by the PSA, on 3 July 2007 security guards patrolled every hour the estate location where hawkers were usually found. When hawkers were found, the guards expelled them from the estate. One hour later, when the guards patrolled the same location again, they found the hawkers doing business there again. They took similar action by expelling them. The same action was **repeated nine times** from 7:00 a.m. to 3:00 p.m. No hawker was found from 4:00 p.m. to 8:00 p.m.

#### **Audit comments**

The case shows that the measures taken by the PSAs may not be effective to clear the hawkers from the estate.

*Source: HD records*

4.45 Audit noted that in some PSA-managed estates with persistent hawker problems, the MOU had helped in resolving the problems through conducting vigorous anti-hawking operations. However, after the MOU handed back the hawker control responsibility of the estates to the PSAs, the problems resurfaced. Case 8 is a typical example.

## Case 8

### Persistent hawker problems in one estate

On 1.9.2006, the MOU informed a PSAU that eight hawker stalls were selling cooked food in a PSA-managed estate for more than six months. The MOU offered assistance to the PSAU. On 7.9.2006, the PSA managing the estate advised the PSAU that the hawker problem in the estate was under control and assistance from the MOU was not required.

On 13.11.2006, the press reported that the hawking activities in the estate from 10:00 p.m. to 3:00 a.m. were unhygienic and caused road obstruction problem. On 15.11.2006, the PSAU asked the MOU to arrange anti-hawking operations. In late 2006 and early 2007, the MOU conducted a number of raiding operations and made 8 arrests and 23 seizures.

On 7.3.2007, the MOU informed the PSAU that the number of hawker stalls in the estate had been reduced from eight to three and hawkers were no longer trading every night. After that, the PSA was asked to resume the hawker control responsibility.

According to the hawker situation reports submitted by the PSA to the PSAU, in July 2007, six hawker stalls were selling cooked food in the estate.

#### **Audit comments**

This case has shown that, because PSAs lack the authority to take enforcement actions against illegal hawking activities, they are not always effective in tackling this problem.

*Source: HD records*

4.46 In July 2007, Audit visited three PSA-managed estates (one estate on 8 July 2007 and two on 11 July 2007). Audit noted that there were some hawking activities in the three estates. In one estate (which was visited at around mid-night), although three hawkers were selling cooked food for more than half an hour, no security guards were seen. In another estate (which was visited in the morning), a hawker stall was selling newspapers. In the third estate (which was also visited in the morning), five hawker stalls were selling joss sticks, fruits and books. In the two estates visited in the morning, while the hawkers were doing business, a security guard was standing nearby but did not take any actions to expel them.

4.47 **PSAs have been given responsibility to control hawkers but have not been conferred the legal powers. Audit considers that the HD needs to critically review how the hawker control problem can be more effectively addressed with the outsourcing of estate management services.**

*Recovery of cost of operations from PSAs*

4.48 A PSA is required under the service contract to maintain the estate free from hawkers. If the hawker problem persists, the HD may, at the request of the PSA or on its own initiative, deploy the MOU to conduct anti-hawking operations, after which the HD may charge the PSA for the cost incurred (Note 39). The level of charge for MOU services is determined on a cost-recovery basis, taking into account the number and rank of staff deployed and duration of the operation.

4.49 In 2005, after conducting a number of anti-hawker operations at one PSA-managed estate, the HD issued two debit notes (totalling about \$77,000) to one PSA to recover the MOU costs of anti-hawking operations. The PSA did not pay. The HD sought legal advice on the feasibility of recovering the costs by deducting the amount from the monthly payments to the PSA. In July 2005, the HD legal advisor advised the EMD that she had reservations on the HA's right to recover the costs from the PSA. In particular, she pointed out that the MOU, in taking hawker control action, had special legal powers which the PSA did not possess, and the HD could not reasonably expect the PSA to take arrest and prosecution actions. The HD subsequently cancelled the two debit notes. Since then, the HD had not taken actions to recover costs from PSAs for anti-hawking operations conducted on PSA-managed estates.

4.50 **In the light of the legal advice and given that PSAs have not been provided with the legal powers, Audit considers that the HD needs to review the practice of recovering the costs of anti-hawking operations from PSAs.**

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**Note 39:** *The PSA contract has provided that, if the PSA fails to provide any service or work required under the contract, the HD may give him 14 days' notice in writing to provide such service or work. If the PSA fails to comply with such notice, the HD is entitled to execute such service or work using its own personnel and recover the costs incurred (plus an on-cost) from the PSA.*

## **Audit recommendations**

4.51 **Audit has recommended that the Director of Housing should:**

### *Reporting of hawking activities by PSAs*

- (a) **take action to ensure that PSAs report hawking activities in the estates they managed to the HD in a timely manner;**
- (b) **conduct independent test checks (including surprise visits and night checks) to ensure that the information reported by PSAs is accurate and complete;**

### *Central record of hawking problems in PSA-managed estates*

- (c) **compile a central record of hawking activities at PSA-managed estates, with reference to the record kept by the MOU for directly-managed estates;**

### *Effective control of hawking activities*

- (d) **review how the hawker control problem can be more effectively addressed after the outsourcing of estate management services; and**

### *Recovery of cost of operations from PSAs*

- (e) **review the HD practice of recovering the costs of anti-hawking operations from PSAs.**

## **Response from the Administration**

4.52 The **Director of Housing** generally agrees with the audit recommendations. He has said that:

### *Reporting of hawking activities by PSAs and compiling central record for PSA-managed estates*

- (a) the HD will formulate guidelines to strengthen the reporting of hawking activities in outsourced estates through the use of the function “Headcounting of Illegal Hawkers” under the new Performance Monitoring



Report System (to be launched in 2008 — Note 40), as well as arrange staff to conduct independent site verifications;

***Effective control of hawking activities***

- (b) the HD will continuously monitor the performance of PSAs according to contractual requirements of service agreements to ensure that effective measures are in place to minimise hawking activities;
- (c) to eradicate illegal hawking activities in PRH estates and surrounding areas, the HD will continue to take enforcement actions according to the modality plan for inter-departmental collaboration as specified in the “Report on Measures to Improve Environmental Hygiene in Hong Kong” published by Team Clean in August 2003. Under this plan, the HD carried out joint operations with the FEHD and the Police to combat illegal cooked hawking in PRH estates (Note 41). Since the implementation of this plan in 2003, the number of hawker blackspots in PRH estates has been reduced significantly; and

***Recovery of cost of operations from PSAs***

- (d) after obtaining the in-house legal advice (see para. 4.49), the HD has discontinued the practice of recovering costs of anti-hawking operations from PSAs.

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**Note 40:** *The Performance Monitoring Report System is a web-based system, through which PSA staff and HD staff can report hawking activities in the estates they manage. HD management can retrieve necessary information from the system for planning and monitoring purposes.*

**Note 41:** *For a blackspot having 10 or more illegal cooked food stalls in operation (Category A blackspot), joint departmental raiding operations by the HD, the FEHD and the Police would be mounted in the shortest possible time frame. For a blackspot having less than 10 illegal cooked food hawkers (Category B blackspot), the MOU would be deployed to conduct surprise raids and intensive patrols. For a blackspot having a small number of illegal cooked food hawkers (Category C blackspot), local management staff, including PSAs, would be responsible for handling the problem.*

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

5.1 This PART examines HD performance management and contingency planning for outsourcing the management of PRH estates.

### **Outsourcing effectiveness**

5.2 The HD has started outsourcing its cleansing and security services at PRH estates since the 1980s. In 2000, with a view to increasing private sector involvement in its services, the HD began to outsource its estate management services to PSAs. Since 2003, the HD has adopted various outsourcing models to deliver its estate management services. The purpose of adopting different outsourcing models is to enhance cost-effectiveness and to gainfully re-deploy the in-house staff. Such outsourcing models adopted include full services (Note 42) and partial services (Note 43).

5.3 In reply to a Legislative Council question raised in 2001, the Administration informed Members that according to the HD's estimates, up to 33% cost savings were achieved through outsourcing estate management services using PSA contracts compared with using in-house staff resources. In 2003, the HD estimated that further cost savings of 31.5% could be achieved after removal of the transitional measure of requiring PSAs to employ ex-HD staff. The EU's examination in 2006 of more recent outsourced contracts also found that the overall cost saving achieved by the HD from the PSA model as compared with the in-house model would be 18%. In interpreting the saving of 18%, the HD pointed out that the cost of the in-house model in 2006 had been substantially reduced from that in 2001, through various organisational reforms and streamlining of business activities by the HD over the years.

5.4 The HD regularly conducts opinion surveys to collect the views and satisfaction levels of tenants and EMAC members on the estate management services (such as quality of estate management/security services, cleanliness of common areas, and maintenance-related services) provided by PSAs.

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**Note 42:** *Full services include tenancy management, property management, minor repair works and project management of major repair and maintenance works.*

**Note 43:** *For example, under the "PMA+" model, PSAs provide all estate management services except project management of major repair and maintenance works. The adoption of "PMA+" model was due to the fact that many PSAs lacked the expertise and resources to perform properly the work of project management. As a result, the HD took up the responsibility in order to provide better maintenance services to tenants.*

5.5 In outsourcing the estate management services, the HD adopts different outsourcing models, depending on the scope of services to be provided by the PSAs. Some PSAs provide full services, whereas others provide partial services. In September 2006, the HD contemplated the “PMA+” model, which is one option under partial services (see Note 43 to para. 5.2), as the ultimate outsourcing model to be adopted for estate management services.

### **Audit observations and recommendation**

5.6 Given that the HD has contemplated adopting the “PMA+” model in its future outsourcing of estate management services, the cost-effectiveness of the “PMA+” model needs to be monitored. **Audit has recommended that the Director of Housing should keep under review the cost-effectiveness of the “PMA+” model, including collecting relevant cost and performance information to help HD management make informed decisions.**

### **Response from the Administration**

5.7 The **Director of Housing** agrees with the audit recommendation. He has said that:

- (a) the HD will keep various service modes under constant review to ensure cost-effectiveness;
- (b) notwithstanding the attainment of cost savings through outsourcing estate management services (see para. 5.3), there had been continuous growth in the satisfaction levels of tenants for all estate management services provided at PRH estates (with the highest in 2007 when compared with that of 2001 to 2006); and
- (c) the results of customer satisfaction surveys for the Total Maintenance Scheme (Note 44) in-flat inspections and maintenance services completed in June 2006, December 2006 and June 2007 also recorded overall satisfaction rates of 85.2%, 86.7% and 88.5% respectively.

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**Note 44:** *Under the Total Maintenance Scheme, the HD deploys staff to inspect in-flat facilities proactively to identify maintenance problems, and strengthens the maintenance service so that prompt action can be taken to deal with the requests of tenants.*

## 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 Corporate Plan, the HA set out its key activities and performance indicators for services provided for HA subsidised housing.

## Audit observations and recommendation

5.9 As at 30 April 2007, the HD outsourced 61% of its estates to PSAs. For PSA contracts alone, the contract value amounted to \$2,647 million. **As a large part of its estate management services has been outsourced, the HD needs to publish key performance measures in respect of outsourced services, with a view to enhancing accountability and transparency.** On Audit's enquiries in September 2007, HD officers advised Audit that the key performance indicators and pledges they published in the Corporate Plan (such as management costs, percentage of arrears rate, average turnaround time for vacant flat refurbishment) applied equally to in-house services and services provided by PSAs/contractors. As such, Audit considers that the HD should make this clear in future Corporate Plans.

5.10 **To help stakeholders evaluate HA performance, Audit has recommended that the Director of Housing should consider making it clear in future Corporate Plans that the key performance indicators and pledges the HA published apply equally to in-house services and services provided by PSAs/contractors.**

## Response from the Administration

5.11 The **Director of Housing** agrees with the audit recommendation. He has said that the requirements for PSAs to follow the key performance indicators in HA Corporate Plans are disseminated through briefing sessions, and guidelines and best practice notes issued to PSAs.

## Contingency planning

5.12 The responsibility for the effective provision of estate management services always rests with the HA, irrespective of whether such services are provided in-house or through outsourcing. As a significant proportion of estate management services has been outsourced, there is a risk that unsatisfactory performance of contractors may affect the overall delivery of services. The risk has to be addressed by way of contingency planning.

## Audit observations

5.13 The HD does not have a contingency plan to cope with a sudden termination of a PSA contract. Although current PSA contracts have included provisions to allow PSAs to provide services at a location outside the estates they managed under the contracts, it is questionable whether the HD could place much reliance on such arrangements in addressing the risks of service disruptions and emergency situations as there is no guarantee that the arrangements can be made available within a short span of time. Besides, the practicability of the arrangements has not been tested.

5.14 Audit noted that the HA endorsed in October 2006 the implementation of a “standby contractor” arrangement, whereby selected cleansing and security service contractors on the HA’s Lists of Cleansing/Security Service Contractors were invited to submit quotations for the provision of standby services. The purpose was to seek standby services where immediate termination of cleansing/security services for a particular directly-managed estate/group of estates was required. Based on the quotations received, the HD maintained a priority list (valid for one year). Whenever required, the standby contractors on the top of the list would be asked to take over the respective services with 48-hour advance notice.

5.15 The HD considers that the “standby contractor” arrangement helps avoid lengthy negotiation with contractors for the provision of standby services and can speed up the take-over time. However, the “standby contractor” arrangement is meanwhile applicable to HD directly-managed estates only. As such an arrangement is a new initiative, the HD may wish to keep under review its cost-effectiveness and consider, where appropriate, the extension of the “standby contractor” arrangement to PSA-managed estates.

## Audit recommendations

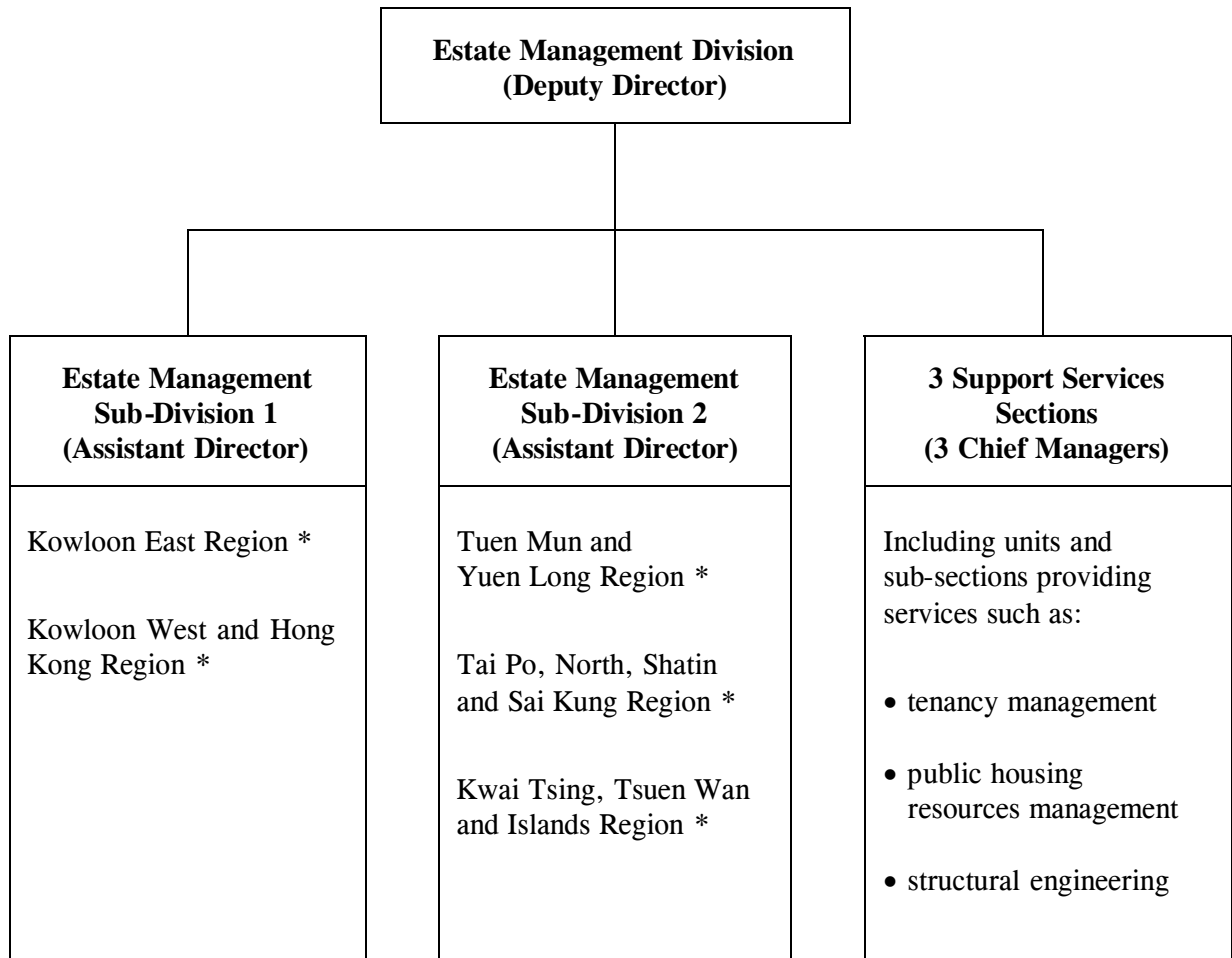
- 5.16 **Audit has recommended that the Director of Housing should:**
- (a) **take steps to ensure that contingency plans are drawn up to address the risks of serious service disruptions; and**
  - (b) **keep under review the cost-effectiveness of the “standby contractor” arrangement for directly-managed estates and consider, where appropriate, extending the “standby contractor” arrangement to PSA-managed estates.**

## Response from the Administration

5.17 The **Director of Housing** agrees with the audit recommendations. He has said that:

- (a) the HD maintains a contingency mechanism by issuing instructions to serving PSAs of other contracts to take over the work of underperforming PSAs in case of need; and
- (b) the EU has also been asked to arrange a consultancy study for the HD to review the adequacy of existing contingency measures so as to avoid any possible service disruption.

**Organisation chart of the Estate Management Division  
(30 April 2007)**



*Legend: \*Each region is headed by a Chief Manager*

*Source: HD 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;



- (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.*

**Case 1**

**Background**

1. This was a DPS contract that involved outsourcing of the management of an estate to a PSA. The PSA was allowed to sub-contract its cleansing services to a sub-contractor.

2. Initiated by an anonymous complaint (which was subsequently considered not substantiated by the HD), in March 2006 the CMT conducted an investigation, which included an examination of sub-contractor records and the conduct of staff interviews. As a result of its investigation, the CMT noted various findings, including the following:

- (a) workers' wages were over-deducted for no-pay leave taken in January and February 2006;
- (b) workers' hourly wages stated in the employment contracts were lower than the rates calculated on the basis of wages committed by the PSA to the HA;
- (c) workers' wages paid for January and February 2006 were lower than the adjusted wages which the PSA committed to the HA for the two months; and
- (d) a worker included in the payroll was suspected of not having actually performed any work.

3. On 8 May 2006, the CMT referred a detailed inspection report to the estate staff for follow-up. There was no reply from the estate staff. As a reminder, the CMT phoned the estate staff twice (in July and December 2006). Upon enquiries in July 2007, estate staff informed Audit that they could not trace the file which recorded the CMT findings, but they recalled that they conducted several surprise roll calls (see para. 2.5(d) of the report) to verify the cleansing workers' presence at work and no irregularities were found.

4. In December 2006, the management of the estate concerned was taken over by the estate's Incorporated Owners and the PSA contract was terminated accordingly.

**Audit comments**

5. The roll calls mentioned in paragraph 3 above only addressed the findings in paragraph 2(d) above. Based on CMT records, it appears that the estate staff had not adequately followed up the CMT findings. The HD had also not taken any regulatory actions against the PSA who was fully responsible for any default or misconduct of the sub-contractor under the outsourcing contract.

**Latest development**

6. After Audit invited HD attention to this case, in September 2007 the HD revisited the case and advised Audit that upon further management action, the PSA contract was terminated (see para. 4 above).

*Source: HD records*

**Case 2**

**Background**

1. This was a DPS contract that involved outsourcing of the management of an estate to a PSA. The PSA was allowed to sub-contract its security services to a sub-contractor.
2. Initiated by a telephone complaint received on 20 June 2006 from a workers' union, the CMT interviewed 44 security guards of the sub-contractor on 23 June 2006 and had the following findings which were referred to the estate staff for follow-up on 26 June 2006:
  - (a) to avoid payment of employment benefits, the sub-contractor had directed a number of security guards to resign voluntarily and then re-employed them shortly afterwards;
  - (b) the sub-contractor had collected uniform deposits of \$600 each from the security guards and asked them to pay uniform cleaning fees of \$100 each upon termination of employment; and
  - (c) the sub-contractor might not have paid his MPF contributions for the security guards.
3. On 19 July 2006, the CMT forwarded a detailed inspection report to the estate staff for follow-up. The inspection report contained additional findings, which included the following:
  - (a) each month, the sub-contractor paid the security guards wages ten days in arrears, but asked them to sign for receiving payments on an earlier date;
  - (b) the sub-contractor did not arrange for wage payments by autopay; and
  - (c) the sub-contractor did not provide the security guards with salary statements.
4. On 31 July 2006, the PSA responded to the estate staff on the CMT findings. The PSA admitted, among other things, that by 23 June 2006 (the date when the CMT conducted the staff interviews), all 44 security guards had not been provided with salary statements, and wages were paid to them late. The PSA also advised that the defaulted sub-contractor would terminate the security services contract early after giving one month's notice. Effective from 1 August 2006, a new sub-contractor was employed by the PSA to continue providing security services for the estate.
5. In September 2006, the PSA advised the estate staff that he paid \$122,591 to settle the outstanding MPF payment for the period from March 2005 to July 2006, and refunded \$23,500 to the security guards (\$500 each) to settle part of the uniform deposits deducted by the defaulted sub-contractor from their wages.

6. In October and November 2006, the estate staff interviewed two security guards who resigned in June 2006 and who were allowed to resume duty in July 2006 after the CMT identified the findings in paragraph 2(a) above. The two security guards declined to refer their cases to the law enforcement agencies for investigation. There was no progress documented in the CMT case file after the staff interviews.

7. On Audit's enquiries in late July 2007, the estate staff advised Audit that during the period January to May 2007, they interviewed 12 security guards (who worked both under the old and new security services contracts), and were told by the security guards that they had received all outstanding payments including the uniform deposits and payments in lieu of annual leave, and were satisfied with all arrangements made by the PSA.

**Audit comments**

8. Up to the end of August 2007, the HD had not taken any regulatory action against the PSA who was fully responsible for any default or misconduct of the sub-contractor.

9. The late payment of wages by more than seven days (see para. 3(a) above) could have constituted a potential breach of the Employment Ordinance. The HD did not refer the case to the LD for investigation.

10. Although the estate staff reported that they interviewed 14 security guards (see paras. 6 and 7 above), Audit noted from the case file that the staff interviews mainly related to their employment terms under the new employment contracts.

**Latest development**

11. After Audit invited HD attention to this case, in September 2007 the HD revisited the case and issued a warning letter (with content similar to a DN) to the PSA for the sub-contractor's non-compliance with the contractual requirements.

*Source: HD records*

**Case 3**

**Background**

1. This was a DPS contract that involved the outsourcing of the security services in a directly-managed estate to a contractor. On 29 January 2007, the CMT initiated an ad hoc inspection of the contract. The CMT had, among other things, the following findings:

- (a) 27 workers' wages were underpaid for overtime worked in October and December 2006;
- (b) seven workers received payments in lieu of their "less than 10 days" annual leave;
- (c) 24 workers had to pay uniform fees/deposits on commencement of their employment contracts;
- (d) a number of workers were charged training fees or required to pay uniform laundering fees upon termination of employment contracts; and
- (e) 9 workers were not provided with copies of their employment contracts.

2. On 10 April 2007, the CMT forwarded the findings to the estate staff for follow-up. On 3 May 2007, the estate staff referred the findings to the contractor for explanation and, if the findings were valid, for improvement measures to be taken. A meeting was also held on 29 May 2007 between the estate staff and the contractor to discuss the findings. The contractor was warned at the meeting of the need to comply with the statutory and contractual obligations in future. On 23 July 2007 (at the time of audit fieldwork), the HD issued a letter forewarning the contractor that regulatory action would be taken if he committed the same non-compliance in future.

**Audit comments**

3. Audit noted various inadequacies in the follow-up by the estate staff. For example:

- (a) although most of the 27 workers (see para. 1(a) above) had signed a record to acknowledge the contractor's underpayment of wages, the contractor did not submit subsequent proof of settlement;
- (b) of the 24 workers who had paid uniform fees/deposits (see para. 1(c) above), only 6 signed for receipt of refunds; and
- (c) the contractor did not submit any evidence to support that the training fees (see para. 1(d)) had been refunded.

4. Although the contractor was given verbal and written warnings by the HD (see para. 2 above), up to the end of August 2007, no other regulatory actions had been taken against him. Such other regulatory actions might have included the issue of DNs under the DPS, the issue of DNs without demerit points or the application of the "batch-payment adjustment".

**Latest development**

5. After Audit invited HD attention to this case, in September 2007 the HD revisited the case and issued one DN without a demerit point to the contractor.

*Source: HD records*

**Case 4**

**Background**

1. This was a DPS contract that involved the outsourcing of the cleansing services in a directly-managed estate to a contractor. On 21 July 2006, the CMT initiated an ad hoc inspection of the contract. The CMT had, among other things, the following findings:

- (a) 16 workers' wages were underpaid for overtime worked in April and May 2006;
- (b) some workers were not given sufficient rest days in April and May 2006, and no arrangement was made to allow them to take compensating rest days in other periods;
- (c) no MPF contribution was made for 2 workers who had worked for more than 60 days; and
- (d) during the period 1 April to 20 July 2006, five workers each worked as a replacement worker for several posts for time that overlapped. The CMT was concerned that the contractor might have failed to provide the committed resources.

2. On 15 August 2006, the CMT forwarded the findings to the estate staff for follow-up. There was no progress in the CMT case file and the contract had expired at the end of October 2006. Upon Audit's enquiries with the CMT, the estate staff informed the CMT in July 2007 that:

- (a) regarding the issues in paragraph 1(a) and (b) above, as the contractor had agreed with the workers that they should work 26 working days a month, the wages paid and the leave provided were in accordance with the agreed terms. Subsequently, the contractor further agreed revised arrangement for holidays with the workers;
- (b) regarding the issue in paragraph 1(c) above, the two workers concerned had not worked for more than 60 days and therefore no MPF contribution was required; and
- (c) the situation in paragraph 1(d) above had arisen because a number of workers had wrongly signed the attendance record on behalf of other workers.

3. In late August 2007 (upon Audit's enquiries), the estate staff further followed up the case and found that the contractor had not signed any employment contract with one of the workers mentioned in paragraph 2(b) above. The estate staff also advised Audit that they interviewed the contractor and the workers on 16 September 2006 and, as part of the monthly sample checking (see Note 5 to para. 2.6 of the report), they conducted random checks on this contract and no further irregularities were found. The HD was still investigating the underpayment of wages mentioned in paragraph 1(a) above.

**Audit comments**

4. Audit considers that the follow-up work by the estate staff was inadequate. For example, the underpayment for overtime worked (see para. 1(a) above) as reported by the CMT could have constituted a potential contractual breach, but the estate staff did not appear to have adequately followed it up. Audit was also concerned that, up to the end of August 2007, the HD had not taken any regulatory actions against the contractor.

**Latest development**

5. After Audit invited HD attention to this case, in September 2007 the HD revisited the case and issued one DN without a demerit point to the contractor.

*Source: HD records*

**Scoring Table for assessing the performance of PSAs**

<b>Scores for HD standard</b>	<b>Performance of PSA</b>	<b>Scores for higher standard as pledged by PSA</b>
6	“Substantially better”	8
5	“More better”	7
4	“Slightly better”	6
3	Pass (Acceptable standard)	4
2	“Slightly worse”	2
1	“More worse”	1
0	“Substantially worse”	0
-1	No improvement after obtaining score “0” in the previous inspection	-1
-2	No improvement after obtaining score “-1” in the previous inspection	-2
-3	No improvement after obtaining score “-2” or “-3” in the previous inspection	-3
-4	No improvement after obtaining score “-3” or “-4” in the previous inspection	-4
-5	No improvement after obtaining score “-4” or “-5” in the previous inspection	-5

*Source: HD records*

**Examples of non-compliance with HD Administration Guidelines**

<b>Administration Guidelines</b>	<b>Non-compliance</b>
(a) For a service item with performance pledge higher than HD standard, the passing score is set at 4 (Note 1). For an item with slightly better performance, the score should be 6. For an item with slightly worse performance, the score should be 2. (The Scoring Table at Appendix G is relevant.)	For some estates, the monitoring teams awarded a score of 5 (instead of 6) to the PSAs for service items with slightly better performance, and a score of 3 (instead of 2) to the PSAs for service items with slightly worse performance.
(b) The minimum score for a non-compliance item is zero. If there is no improvement for the item at the next inspection, further deductions should be made. The lowest mark for each item is -5. (The Scoring Table at Appendix G is relevant.)	For one estate, the monitoring team awarded a zero score to the PSA for a substantially under-performed service item in November 2006. There was no improvement of the service item in December 2006. Nonetheless, the monitoring team still awarded a zero score for the service item to the PSA without giving a negative score.
(c) The three disciplines (i.e. estate management, building works and building services) of a monitoring team, led by a PSM, should conduct monthly inspections together on a specific day.	For some estates, the three disciplines of the monitoring teams did not conduct monthly inspections on the same day.
(d) The monitoring team should issue a reminder to a PSA who has failed to achieve the acceptable standard for two consecutive months.	For some estates where some service items (e.g. “maintenance/working condition of building services installation/equipment”) were given a score of 1 or 2 for five or more months, there was no documentary evidence showing that the monitoring teams had issued reminders to the PSAs.
(e) During monthly inspection or surprise check, the monitoring teams should select at least one in-flat maintenance works order for checking the quality of the PSAs’ maintenance services.	For one estate, the monitoring team did not select any in-flat maintenance works order for checking during the monthly inspection and the surprise check (Note 2).

*Source: HD records*

*Note 1: The passing score for a service item with pledge set at HD standard is 3.*

*Note 2: Audit examined the record of a surprise check conducted by the monitoring team in June 2007, and attended as observer to the team’s monthly inspection conducted in the same month.*



**Acronyms and abbreviations**

Audit	Audit Commission
CA	Contract administrator
CMT	Central Monitoring Team
CRC(PS)	Contractors Review Committee (Property Services)
DN	Default notice
DPS	Demerit Point System
EMAC	Estate Management Advisory Committee
EMD	Estate Management Division
EU	Efficiency Unit
FC	Financial Circular
FEHD	Food and Environmental Hygiene Department
FSTB	Financial Services and the Treasury Bureau
HA	Housing Authority
HD	Housing Department
HMs	Housing Managers
HOS	Home Ownership Scheme
ICAC	Independent Commission Against Corruption
LD	Labour Department
MOU	Mobile Operations Unit
MPF	Mandatory Provident Fund
OC	Owners' corporation
Police	Hong Kong Police Force
PRH	Public rental housing
PSAs	Property services agents
PSAU	Property Service Administration Unit
PSC Manual	Property Services Company Administration Manual
PSMs	Property Service Managers