

防貪錦囊
Guidelines for Corruption Prevention

best practices



Contracting Out Security Services

Corruption Prevention Department

CONTENTS

	<i>Pages</i>
Introduction	1
Guidelines	1
Contract Letting	2
Tenders	2
<i>Open Tender</i>	2
<i>Restricted Tender</i>	2
Approved Contractors List	2
Tender Invitation	3
Waiver of Tender Procedures	4
Tender Documents	4
Contract Conditions	4
Tender Procedures	6
Tender Evaluation	6
Notification	7
Contract Administration	7
Supervision and Inspection	7

	<i>Pages</i>
Performance Appraisal	8
<i>Maintenance of Records</i>	8
Payment Procedures	9
Disciplinary Measures	9
De-merit System	10
Payment Deductions	10
Advisory Services Group	11

CONTRACTING OUT SECURITY SERVICES

Introduction

Organizations often find it cost-effective to appoint security services. Professional knowledge and experience aside, contracting out enables an organization to obtain the best quality of service at the lowest price. However, corruption opportunities exist in both the selection and the administration of security contractors. When corruption occurs, an organization fail to secure a value-for-money services but also severe financial loss and damages to its reputation. The risk of corruption can be greatly reduced if appropriate safeguards are built into the selection and administration system for these contracts from the beginning.

This Best Practice Module aims to provide organizations with a checklist of good practices in appointing and administering security contractors, focusing on corruption prevention measures. It is intended for reference by organizations in both the public and private sectors and having well-established management systems.

Guidelines

A key factor in minimizing corruption opportunities and achieving effective control is the adoption of clear written procedures and instructions that ensure consistency and transparency in operations. These instructions should include :-

- details of the various methods (e.g. competitive tender) to obtain security services (including any provision for urgent purposes) and the criteria for their application;
- the various authorisation levels and their corresponding responsibilities;
- the documentation and performance checks required; and
- warnings prohibiting bribery and requirement of declaration of conflict of interest.

Contract Letting

The selection method should be transparent and fair to ensure that eligible contractors are given a chance to compete on service quality and price. The organization is then able to benefit from the competitive bids and select the best available offer.

Tenders

A well recognised method of appointment is by a competitive tender. Some organizations prefer to select their contractors by **open tender** while others prefer to do it by **restricted tender** so that only pre-qualified contractors are invited to bid. In both cases the selected tender should be considered and approved by a Tender Board, preferably comprising both users and administrative staff. (A separate Best Practice Module on procurement matters, including tendering, has been published.)

Open Tender

An open tender is based on the general principle of transparency. By making the service requirements widely known through an open invitation to tender (e.g. through newspaper advertisements), both existing service providers and new contractors are given an equal chance to bid on any project.

Restricted Tender

Restricted tender should be employed only under special circumstances, say, the number of firms capable of providing the services is limited in some aspects. This may be done by short-listing contractors selected from a pre-qualified list such as an Approved Contractors' List.

Approved Contractors List

A formal system of listing or registration ensures that only qualified contractors are short-listed and invited to bid. Since membership of such a list confers preferential status, those responsible for the process should ensure that:

- there is a fair and transparent system based on pre-approved criteria both to register and to pre-qualify suitable contractors. The listing criteria should be made known to all potential bidders in the call for registration;
- the list should be maintained independently of the operational level, for example, by the administrative staff responsible for letting contracts. Any additions to and deletions from the list should be endorsed by a senior staff member in accordance with the pre-approved conditions;
- invitations to register should be made at regular intervals to maintain an adequate number of contractors and to allow the entry of new contractors to the list. These invitations should be given wide publicity - for example, by newspaper advertisement; and
- applications for registration should be made in a standard form showing the required information, such as company particulars, resources, and years of experience in the specialised field.

Tender Invitation

Market efficiency aside, competitive tendering reduces opportunities for favouritism and malpractice with a corrupt motive. Nevertheless, organizations should make provisions for exceptional or emergency situations where the normal competitive tendering procedures may not be appropriate and detailed guidelines for restrictive tender should be issued.

In the event that a briefing will be organised for the potential bidders, all interested parties should be invited and the briefing should be organised as early as possible to give potential bidders reasonable time to prepare the submissions.

Waiver of Tender Procedures

Any departure from normal open tendering procedures, or inviting bidders who are not on the Approved List, must be justified and receive prior approval of a senior staff member at the appropriate level. Detailed guidelines on such matters should be drawn up.

Under circumstances where there is a single tender situation (for example, the service required is highly specialized and there is only one eligible contractor in the field), full justification must be submitted for the endorsement of the Tender Board or the senior management.

Tender Documents

A set of clear and comprehensive tender documents ensures that the tender procedures and the required services are known to all contractors. A realistic time limit also should be specified to enable suppliers to respond effectively.

The tender documents should cover the following:

- Notes on the procedures for the submission of tender, the general requirements and the deadline for tender submission and notification that late tenders will not be considered;
- Conditions of Contract; and
- Detailed specifications of the service required.

Contract Conditions

Clear contract conditions and specifications ensure the proper delivery of service by the contractors, and protect the organization from loss or damages.

The contract agreement should be based on standard contract terms including items such as:

- **service requirements** (for example, the locations of guard duties, the number of guards and supervisory staff on site, the equipment to be used and to maintain all areas hawker-free);
- **requirements for security guards and watchmen** should be stipulated, e.g. holder of a valid security personnel permit issued by the Hong Kong Police, etc.;
- **schedule of rates** specifying the rates (monthly, daily and hourly, per unit area etc.) to be paid for the contract services and any special services on an ad hoc basis;
- **variation of service** conditions under which there may be a reduction of or addition to services, with payment adjustments according to the agreed tender rates;
- **payment and accounting methods** in relation to the services performed;
- **deduction/withholding of payment** provisions for incomplete or unsatisfactory service (for example, absence from or sleeping on duty, missing patrols);
- **termination of contract** provisions in case of major service default;
- **reporting requirements** on staff strength, staff attendance, and services provided;
- **prohibition of sub-letting** (if applicable);
- **insurance or other risk cover** against possible claims for accident or injury (with an underwriter approved by the client);
- **contract extension** conditions for modifying the length and/or scope of the contract; and
- **warning clauses** incorporating the prohibition of acceptance or offer of advantages, the requirement to declare any potential or actual conflict of interest and the adoption of a code of business conduct (if applicable).

Tender Procedures

Tender receipt and handling procedures should be established to maintain security and confidentiality of tender information.

Tenders should be submitted in duplicate and lodged in a secure tender box. The tender box should have double locks with the keys held separately by staff members of an appropriate level.

The tender box should be opened immediately after the tender closing time and in the presence of independent staff witnesses. A record of tenders and prices initialled by the witnessing staff should be kept, preferably in duplicate.

Late tenders should not be opened, and after recording (as late) should be returned to the sender or held securely for a period of time before disposal.

Tender Evaluation

Formal tender evaluation procedures ensure consistent and objective comparison of tenders and should result in the selection of the most suitable contractor. To prevent tampering with the proposals in the evaluation process, the original tender should be held separately in a secure location, while the tender assessment is performed using the duplicate copy.

The selection may be based on ***direct price comparisons*** or a ***combination of bidding price and service proposals***. In the latter case, there should be clear instructions on the weighting given to the financial and technical evaluation (7:3 as a general rule). To enable fair comparison, conforming bids only should be considered and/or pre-approved evaluation procedures and criteria should be drawn up for this purpose. If the lowest bid is not selected, the supporting justification for the choice should be documented.

Assessment of tenders should be based on pre-approved criteria to reduce personal discretion and subjective judgment. Tender assessments by the panel should be documented preferably on a standard form e.g. a marking scheme for individual scoring by panel members.

If contractors are invited to attend a pre-tender meeting, all potential bidders should be invited. Any supplementary tender information released after tender invitation should be made available to all potential bidders, especially those already submitted their bids. If a later selection interview is held, this may be restricted to the short-listed contenders. Appropriate records should be kept of all meetings and interviews.

Where feasible, the final selection recommendation should be submitted to an independent authority such as more senior staff or a Tender Board for approval.

Notification

Upon approval of a tender award, all unsuccessful bidders should be notified of the outcome. To enhance transparency, it is advisable that the name and the price offer of the successful contractor be made known to other bidders on request.

Contract Administration

Clear written instructions should be issued to the contractor so that there is no misunderstanding of the scope and quality of service. The security guards/watchmen provided by the contractor should be interviewed and their security personnel permits checked. There should also be defined supervision and inspection procedures to help maintain the quality of service and to prevent malpractices.

Supervision and Inspection

A system of inspection should be established comprising both scheduled inspections and surprise checks (including night checks where appropriate). The records of any watchman clock system may be used to verify attendance and performance of duties.

Inspection records should be maintained and any irregularities (for example, head counts, unauthorised absence from duty, false log book entries, improper uniform) should be noted. Instructions issued to the contractor concerning any necessary remedial action should be documented.

Where practicable, the staff responsible should hold regular meetings with the contractor's management to discuss problems and review service standards.

Performance Appraisal

A formal performance appraisal system enables the organization to monitor and evaluate the contractor's performance on an objective and fair basis. If possible, feedback from users should be incorporated. The findings also can be used for reference when the contractors are reviewed for inclusion in future tender invitations and to help decide whether a contractor should remain on any Approved Contractors' List.

Supervisory staff should compile evaluation reports periodically and at the end of the contract. Feedback from end-users should also be obtained to assist in this process.

The evaluation report should be prepared in a standard format and should be scrutinised by a more senior staff member to ensure that the assessment is fair and accurate.

Maintenance of Records

Where inadequacies are reported, the contractor's management should be alerted and required to make improvement. There should be formal recording of the outcome of any management advice and the outcomes.

Payment Procedures

Effective financial procedures applied to the contract payment process can be significant in preventing manipulation and fraud by staff. Expenditure reports should be readily available to management, detailing the costs and highlighting discrepancies and abnormal trends.

To ensure effective monitoring and control, contractors should be required to provide timely billing details and be subject to random audit. More details of billing and payment control processes are given in another Best Practice Module, but a brief outline is given below :

- upon receipt of the invoice, the service provided should be verified against the inspection records made by supervisors;
- any valid payment deductions (for example, due to absence from or sleeping on duty, missing patrols) during the period must be verified and applied;
- the end-user(s) may be asked to check and endorse the payment details; and
- invoices should be submitted to an independent section (for example, the accounting or finance office) for double-checking and payment.

Disciplinary Measures

A disciplinary system in contract administration helps to ensure that suitable action is taken against a contractor whose performance is unsatisfactory and that such incidents are recorded for performance assessment.

De-merit and payment deduction systems are the commonly used methods to penalize poor performance. However, such systems must be carefully administered to avoid abuse and corrupt manipulation.

De-merit System

De-merit points are imposed for any unsatisfactory work or failings found during inspections. The de-merit point system should be defined and specified in the contract and be graded according to the seriousness of the event.

The imposition of de-merit points for any shortcomings should be reviewed and endorsed by a more senior staff member.

The record of de-merit points should be subject to maintained and stored in a secure manner to prevent tampering.

On the accumulation of a specified number of de-merit points, more severe disciplinary action should be taken against the contractor based on established measures stated within the contract (for example, the issue of a written warning, or termination of the contract).

Payment Deductions

The contract terms normally provide for deductions to be made for more serious cases of non-performance or non-compliance with contract conditions.

A clear-cut policy should be formulated for handling payment deductions. Staff responsible for its enforcement should be given detailed operational guidelines (for example, should the contractor be given time to first rectify any faults before resorting to payment deduction?).

The decision whether or not to impose a deduction should be confirmed by a staff member at a more senior level. The reason for the deduction should be recorded and timely advice given to the contractor.

Advisory Services Group

In addition to the series of Best Practice Modules, the ICAC maintains an **Advisory Services Group** to provide free and confidential corruption prevention advice to private organizations covering various aspects of their activities such as staff administration, stores management and administration of contracts. For further information, please contact the Advisory Services Group at telephone no. 2526 6363 or fax no. 2522 0505 or email address asg@cpd.icac.org.hk.



Corruption Prevention Department
Independent Commission Against Corruption
2003