

6 September 2023

## **Addendum to the Tripartite Advisory on Best Sourcing Practices – Guidance on Contract Renegotiation Following Announcement of PWM Requirements**

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1. This addendum provides service buyers and service providers of outsourced sectors with guidance on contract renegotiation following the announcement of new and/or updated Progressive Wage Model (PWM) requirements – to support business sustainability and promote the adoption of fair and transparent procurement practices.
2. This addendum builds upon the Tripartite Advisory on Best Sourcing Practices<sup>1</sup>, which covers the following topics:
  - a. Safeguard the basic employment rights of workers
  - b. Ensure progressive remunerations and benefits for workers
  - c. Implement outcome-based contracting by specifying service-level requirements rather than headcount
  - d. Recognise factors that contribute to service quality
  - e. Provide decent work environment for workers
  - f. Seek to establish a long-term collaborative partnership with service provider
  - g. Build a fair contracting partnership with service providers

### **Background**

3. The first Progressive Wage Model (PWM) was introduced in the Cleaning sector in 2012. Since then, PWM has been implemented for other outsourced sectors, namely Security, Landscape Maintenance, Lift and Escalator Maintenance, and Waste Management.
4. In October 2020, the Tripartite Workgroup on Lower-Wage Workers (TWG-LWW) was formed to look at ways to further uplift the wages and well-being of lower-wage workers (LWWs). Among its 18 recommendations, the TWG-LWW recommended for LWWs' wages to outpace median wage growth, so as to narrow the income gap. TWG-LWW also recognised that uplifting LWWs is a whole of society endeavour. Besides the Government and employers playing their part, corporate buyers and consumers also have a role to play. TWG-LWW's report was published on 30 August 2021, and its recommendations<sup>2</sup> were accepted by the Government.
5. The PWM wage schedule for each sector is negotiated by sectoral tripartite clusters, which comprise representatives from the unions, service providers and service buyers in the sector, as well as the Government. PWM requirements are enforced through Government regulatory levers.

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<sup>1</sup> In 2008, MOM, NTUC and SNEF jointly published a Tripartite Advisory on Best Sourcing Practices, applicable industry-wide. It can be downloaded from <https://www.mom.gov.sg/-/media/mom/documents/employment-practices/guidelines/tripartite-advisory-on-best-sourcing-practices.pdf>

<sup>2</sup> Tripartite Workgroup on Lower-Wage Workers Report titled Progress Through Solidarity & Dynamism was released on 31 August 2021 and can be downloaded from <https://www.mom.gov.sg/twg-lwwreport>

6. The tripartite clusters recognise that in sectors where outsourcing is common, service providers typically enter multi-year contracts with service buyers. The tripartite clusters thus negotiate a multi-year schedule of wage increases for each PWM sector, to provide service buyers and service providers with clarity on how PWM wages will increase in the years ahead. PWM wage schedules are also announced in advance, so that service providers and service buyers entering new contracts can do so with sufficient information.

7. Outsourced sectors rely on a skilled and productive workforce to deliver quality service outcomes and meet the needs of the service buyers. The procurement practices adopted by service buyers and providers shape how service contracts are awarded and managed, which in turn influences service quality, standards, and outcomes within the sector. Service buyers and service providers should thus work together to ensure that the contract prices are reasonably sized to adequately cover relevant costs so that workers can be paid fairly.

### **Feedback on Contract Renegotiation Following PWM Wage Announcements**

8. In line with TWG-LWW's recommendation to boost LWWs' wages to gain ground with median, tripartite clusters have recommended higher PWM wage increases. The tripartite partners understand that some service providers may find it difficult to maintain their existing long-term contracts if the contract sum was locked in prior to new and/or updated PWM wage requirements, which can be significantly higher than earlier requirements. In such cases, service providers have asked to renegotiate their contracts with service buyers.

9. The tripartite partners are aware of instances where service providers have faced challenges in renegotiating contracts with service buyers, for contracts that they had entered into prior to the announcement of new and/or updated PWM wage requirements. For some contracts, there is also no termination clause that service providers can rely on if they find it unsustainable to continue the contract at the original contract sum.

10. In other instances, some service buyers have requested to exercise their option to extend their contract with the service provider at the original contract price based on prevailing service requirements, which had not factored in the latest round of PWM wage increases. When service providers decline contract extension at the original contract price and request to mutually terminate the contract, some service buyers have debarred these service providers from future tender exercises.

11. The tripartite partners are aware that when evaluating multi-year tender bids, service buyers will typically assess tender proposals holistically using a price-quality matrix before a contract is awarded. Service buyers have expressed concerns that should an incumbent service provider be given the option to terminate an ongoing contract without basis, there will be significant impact to operations and service delivery to end-consumers.

### **Re-emphasizing the Spirit of Best Sourcing in Contract Renegotiation**

12. Under Section G of the Tripartite Advisory on Best Sourcing Practices (*"Build a Fair Contracting Partnership with Service Providers"*), **service buyers are encouraged to "allow service providers to vary their bid prices within the offer validity period, if the latter are able to provide justifications on the basis of unforeseeable circumstances (e.g. force**

***majeure events) that could lead to higher operating costs for service providers during the contract term.***” This clause calls upon service buyers to take into account circumstances that are beyond the service providers’ control, when sizing contract prices.

13. The tripartite partners are of the view that the long-term sustainability of outsourced sectors is crucial to ensure that essential services will continue to be provided without disruption to the end-consumers. **It is in the interest of both service buyers and service providers to engage in open communication and find a mutually amicable solution to contract renegotiation when this is warranted.**

14. Most PWM sectors are outsourced in nature and within the Built Environment ecosystem. There is an increasing trend of property owners awarding an Integrated Facilities Management (IFM) contract to a single IFM contractor, who will in turn subcontract with multiple service providers, to provide a one-stop service to the property owner. In such cases, the IFM contractor plays a dual role where it is both service provider (to the property owner), and service buyer (to the third-party contractors from whom they subcontract services). The tripartite partners recognise the increasing prevalence of such IFM contracts, and urge all parties of such IFM arrangements to adopt the guidance set out in the Tripartite Advisory on Best Sourcing Practices.

15. To uplift the lives of PWM workers, the tripartite partners call upon all stakeholders to play their part in the following ways:

- a. Service providers should be transparent about the cost increases arising from newly announced PWM wage requirements, after accounting for any transitional wage support provided by the Government to help offset the mandatory wage increases – e.g. Progressive Wage Credit Scheme (PWCS)<sup>3</sup>. Service providers should also demonstrate why the increases cannot be accommodated within the original contract price.
- b. Service buyers should recognise that service providers are required to adhere to the respective PWM wage requirements and may not have factored in the full impact of mandatory wage increases in their earlier contracts. Service buyers should not insist on maintaining (or reducing) the original contract price on the sole basis that service providers receive transitional wage support from the Government for adjusting to PWM Wage requirements. Instead, service buyers should work with service providers to determine the cost increases that cannot be accommodated within the original contract price, after accounting for any Government funding support, and assess the scope for contract renegotiation accordingly.
- c. Service buyers should also not debar service providers from future tender exercise(s), simply because service providers decline to renew their contracts at the original contract price. In the spirit of fair and transparent procurement practices, service buyers are further advised to allow the incumbent service provider to terminate the contract, in the event of unforeseen circumstances leading to unsustainable business operations.

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<sup>3</sup> More information on Progressive Wage Credit Scheme can be found at <https://go.gov.sg/pwcs>

- d. As contracts between service buyers and service providers are private arrangements, any change to the contractual terms would need to be renegotiated and agreed to by both parties. The Government is doing its part to offset increases in labour costs through the PWCS. Under the PWCS, the Government funds up to 75% of wage increases that employers provide to lower-wage workers, for five years from 2022 to 2026. This includes mandatory wage increases arising from PWM Wage requirements.
- e. Uplifting LWWs is a whole-of-society responsibility, and the cost of raising their wages will have to be shared. All stakeholders, including end-consumers, can play their part by paying a little more for PWM services.

16. To facilitate a mutually agreeable resolution, service buyers and service providers may avail themselves to voluntary mediation services. For more information on mediation, please refer to the links below:

- a. Singapore Mediation Centre (<https://mediation.com.sg/>)
- b. Law Society Mediation Scheme (<https://www.lawsociety.org.sg/for-lawyers/dispute-resolution-schemes/law-society-mediation-scheme/>)

### **Additional Best Practices for Procurement and Contract Management**

17. When negotiating new multi-year service contracts, service buyers and service providers should work together to price in anticipated PWM wage increases, based on the announced wage schedule(s).

18. Service buyers and service providers are also encouraged to adopt the following best practices for procurement and contract management to minimise downstream disputes.

- a. Ensuring Contract Price Transparency. When calling for tender, service buyers should request service providers to submit a breakdown of the bid price for each year of the contract period, including option years for contract extension (if any). This will provide greater transparency in the contract price and facilitate downstream renegotiations to account for cost fluctuations and/or unforeseeable circumstances, where warranted.
- b. Clarifying Terms for Contract Management. As part of the tender process and contract negotiation, service buyers and service providers should agree upfront on (i) circumstances under which contract renegotiation and/or modification of terms for contract extension is reasonable, and (ii) conditions for such adjustments, where applicable (e.g. whether it can be initiated by either party, limits on types of adjustments).

19. Service buyers are highly encouraged to move towards outcome-based contracting, which focuses on service quality and the delivery of specified outcomes. Outcome-based contracting is a win-win for both service buyers and service providers. It encourages service providers to invest in productivity solutions and deploy manpower more efficiently, which could

help to mitigate the cost of labour increases due to PWM Wage requirements. At the same time, service buyers can benefit from better quality and more value-for-money services.

20. For questions on the above advisory, please contact:

- Ministry of Manpower (MOM): <http://www.mom.gov.sg/contact-us>
- National Trades Union Congress (NTUC): [ucarecentre@ntuc.org.sg](mailto:ucarecentre@ntuc.org.sg)
- Singapore National Employers Federation (SNEF): [advisory@snef.org.sg](mailto:advisory@snef.org.sg)

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