



CORRUPTION PREVENTION GUIDE FOR GOVERNANCE AND INTERNAL CONTROL

FOR USE BY SMEs



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FOREWORD

In a highly competitive business environment, a company's edge cannot be sustained only by way of promotion of business through aggressive networking and business strategy. Of equal importance to the company is a relationship of trust with both its business partners and customers. To build up and maintain such a relationship, the company has to uphold an ethical culture and put in place a system of effective internal control to be fostered through good governance. This is particularly crucial to companies with operations in the Mainland where control over the company's activities and supervision of staff are remote.

This Corruption Prevention Guide aims at providing a comprehensive set of governance and internal control measures which could help small and medium enterprises (SMEs), large or small, to prevent corruption and fraudulent practices in major business processes. Companies are advised to adopt the recommended measures as appropriate, having regard to their organisational structure, resource capability, operational needs, and risk exposures.

The Corruption Prevention Advisory Service (CPAS) of the Corruption Prevention Department of ICAC stands ready to provide free, confidential, and tailor-made corruption prevention advice to private companies on request, including how to apply the practices recommended in this Guide which are suitable for your situation. For further information, please contact CPAS at telephone no. 2526 6363, fax no. 2522 0505 or email address cpas@cpd.icac.org.hk. Please refer to **Appendix 1** for more information of ICAC service and assistance, including channels of reporting corruption.

FROM THE EDITORIAL BOARD

Descriptions and explanation of legal requirements under the Prevention of Bribery Ordinance (Cap. 201) and other relevant ordinances/laws in this publication are necessarily general and abbreviated for ease of understanding. Users of this publication are advised to refer to the original text of the relevant ordinances/laws or seek legal advice on particular issues where necessary. The ICAC will not accept any responsibility, legal or otherwise, for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

The advice and recommendations given in this publication are by no means prescriptive or exhaustive, and are not intended to substitute any legal, regulatory or contractual requirements. Users should refer to the relevant instructions, codes and guidelines issued by the relevant authorities, and adopt the appropriate measures that best suit the operational needs and risk exposure of their organisations. The information contained in this publication is updated as at the last revision date shown.

Throughout this publication, the male pronoun is used to cover references to both the male and female genders. No gender preference is intended.

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1 ANTI-CORRUPTION LAWS

1.1 INTRODUCTION

First of all, it is essential for directors and staff of the company to understand the provisions of the Prevention of Bribery Ordinance (Cap. 201) in Hong Kong relating to bribery offences in the private sector. The following is a gist of the relevant sections.

1.2 PREVENTION OF BRIBERY ORDINANCE

Bribery Involving Agents

i. Section 9

- Section 9 (1) – It is an offence for an agent to solicit or accept an advantage, without the permission of his principal, as an inducement to, or reward for, his doing or forbearing to do any act, or showing or forbearing to show favour or disfavour to any person, in relation to his principal's affairs.
- Section 9 (2) – Any person who offers an advantage to an agent for the above purpose also commits an offence.
- Section 9 (3) – Any agent who, with an intent to deceive his principal, uses any receipt, account or other document which contains any statement which is misleading or false or defective in any material particular and in respect of which the principal is interested, is guilty of an offence.

Key Elements

ii. Principal

- The principal is the employer or any authorised persons of the employer.

iii. Agent

- An agent is a person acting for the principal. Any director or employee acting for a company is an agent of the company.

iv. Advantage

- An advantage includes money, gift, discount, commission, offer of employment or free service.
- Entertainment, which is defined as food or drink provided for consumption on the occasion, is not an advantage.

v. **Principal's Permission**

- An agent may accept an advantage in his official capacity with his principal's permission.

vi. **Custom Constitutes No Defence**

- It is not a defence to claim that an advantage accepted or offered is customary in any profession, trade, vocation or calling.

An extract of the Prevention of Bribery Ordinance is at **Appendix 2**. The full text of the Ordinance can be found on the Hong Kong e-Legislation website of the Department of Justice at www.elegislation.gov.hk/hk/cap201.

1.3 MAINLAND RELATED LAWS

Apart from the Prevention of Bribery Ordinance, SMEs with operations in the Mainland may make reference to the "***Business Success: Integrity & Legal Compliance***" – ***Corruption Prevention Guide for SMEs in Guangdong, Hong Kong and Macao***, a publication jointly published by the Guangdong Provincial People's Procuratorate, the ICAC of HKSAR and the Commission Against Corruption of Macao SAR, and consult their legal advisors as necessary.

2 CODE OF CONDUCT

2.1 INTRODUCTION

The first step to good governance is to demonstrate that the company is committed to ethical practices through setting out the standard of conduct expected of the company directors and staff in a Code of Conduct. The things-to-do are listed below.

2.2 COMMITMENT TO ETHICAL PRACTICES

- Include in the Code a statement that integrity, honesty and fair play is the company's core values and that a high standard of business ethics is expected of all directors and staff.
- State the company's "zero tolerance" towards corruption and fraud.
- Make known the company policy to business partners, suppliers, and contractors.

2.3 KEY ELEMENTS OF THE CODE

i. Acceptance of Advantage

- Prohibit directors and staff from accepting advantages from persons with whom they have official dealings and from their colleagues/subordinates, except with the company's permission, as this may affect their objectivity in conducting the company's business.
- Specify the permissible value of token gifts they are allowed to accept in their official capacity.
- Lay down the procedures and authority for approval of acceptance of advantages under specified circumstances.

ii. Offering Advantage

- Prohibit directors and staff from offering bribes or illicit advantages to directors, staff or agents of another company or organisation, in conducting the company's business.

iii. Acceptance of Entertainment

- Advise directors and staff to avoid accepting overly lavish or frequent entertainment offered by business associates, as this may be a "sweetener" to build up a store of goodwill for future demands of unjustified favours.

iv. Declaration and Management of Conflict of Interest

Definition of Conflict of Interest

- A conflict of interest situation arises when the “private interests” of a director or staff member compete or conflict with the interests of the company or the director’s or staff member’s official duties.
- Private interests include financial and other interests of –
 - The director / staff member himself;
 - his family and other relations;
 - his personal friends;
 - the clubs and associations to which he belongs;
 - any other groups of people with whom he has personal or social ties; or
 - any person to whom he owes a favour or to whom he may be obligated in any way.
- Some common examples of conflict of interest are described below but they are by no means exhaustive:
 - A procurement staff is closely related to or has beneficial interest in a supplier being considered by the company.
 - One of the candidates under consideration in a recruitment or promotion exercise is a family member, a relative or a close personal friend of the director involved in the exercise.
 - A staff member of the company is a committee member of a professional institute in his private capacity. He seeks sponsorship from a company’s contactor whom he is responsible for monitoring, for organising an educational event of the professional institute.
 - A director / staff member leaks privileged information relating to the organisation’s operations to favour his friends or relatives who have official dealings with the organisation.

Mechanism to Manage Conflict of Interest

- The company should adopt a “three-step mechanism” in managing conflict of interest –
 - Avoid – All directors and staff should remain alert to and avoid any actual, potential or perceived conflict of interest situation;
 - Declare – If the conflict is unavoidable, the director or staff member should report it to the designated approving authority once he becomes aware of the conflict; and
 - Mitigate – The designated approving authority, after assessing the impact of the conflict and the risk of impropriety, should take appropriate mitigating measure as early as possible.
- The mitigating measure to be taken would depend on the circumstances of individual cases and the level of mitigation should commensurate with the severity of the conflict.
- Proper documentation of the declaration, the rationale for the decisions made and the course of mitigating measure taken should be maintained. A sample form for making the

declaration, recording the decision made and the mitigating measure taken is at **Appendix 3** for reference.

- It would be helpful to designate an office / a staff member of appropriate rank to keep the precedent cases in managing declared conflict of interest so as to enhance consistency and facilitate sound decisions in managing declared conflict in future.

Positive Declaration

- Depending on the operational needs and circumstances, the company may require a director / staff member who participates in projects/exercises involving sensitive issues / information, or with great public concerns to declare if he has or does not have any conflict of interest (i.e. positive declaration) on the matter in order to protect the public interest and the interest of the company.

v. Protection of Company Property and Information

- Remind directors and staff to use company assets and information solely for the purpose of the company's business and prohibit any unauthorised use.
- Require directors and staff to protect the company's classified information in their possession and prohibit unauthorised disclosure of such information.

vi. Compliance with the Code

- State the disciplinary sanctions against breaches of the Code, such as warning, dismissal, etc.
- Designate a staff member of the appropriate level, if resources allow, to handle enquiries on the Code.

vii. Compliance with the Law

- Remind directors and staff to comply with the local laws and those of overseas jurisdiction when conducting the company's business.

viii. Handling of Reports of Corruption and Violations

- State the company's anti-corruption policy and provide suitable channels for reporting corruption and violations of the policy.
- Require all personnel of the company to report promptly any corruption to the ICAC or through the reporting channels provided as appropriate.
- Encourage business partners (e.g. suppliers, contractors) to report corruption, abuses/violations or attempts of the same by any of the company's personnel.
- Provide assurance of confidentiality, prompt handling and non-retaliation to the staff who make a report in good faith.
- Reiterate the "zero tolerance" policy towards any corrupt behaviour detected, which will result in reporting to the relevant law enforcement agency and disciplinary action such as termination of employment (in the case of staff) or termination of contract and exclusion from future bidding (in the case of suppliers/contractors).

2.4 PROMULGATION OF THE CODE

- Have the Code endorsed by the Board and top management.
- Issue the Code or incorporate it into the staff handbook, if any, for issue to each employee upon appointment.
- Organise training or briefing for the directors and staff.

3 INTERNAL CONTROL SYSTEM

3.1 INTRODUCTION

Effective internal control is essential to good governance and is the key to preventing corruption through plugging loopholes for malpractice and fraud. This Chapter highlights the framework of a sound internal control system.

3.2 KEY ELEMENTS OF AN INTERNAL CONTROL SYSTEM

i. Clear Policies, Guidelines and Procedures

- Lay down in guidelines the policy and procedure for the company's various business functions as appropriate, such as staff administration and procurement.
- Define clearly the roles and responsibilities of each level of staff or post and the authorities for making decisions in various functions (e.g. approval of financial commitments or purchases).
- Ensure that the guidelines are understood by the staff concerned through briefing or training.
- Update the policies, guidelines and procedures to suit the company's operation as necessary.

ii. Checks and Balances

- Segregate duties in important business processes (e.g. procurement) as far as practicable.
- Ensure that important processes performed by a single staff member are counter-checked at random (or in full) and audited as resources permit.

iii. Keeping of Records

- Require the staff to keep proper record of the activities carried out and their decisions (e.g. in procurement).
- Safeguard important records and documents to prevent tampering.

iv. Information Security

- Classify the company's information (i.e. confidential and open information) and make sure that all staff are aware of the classification of the information they handle.
- Define information access authorities and require staff to take measures to protect the information in their possession (e.g. lock up documents or activate personal password control in the computer).
- Build in security safeguards to protect data and records in the computer system (e.g. restriction on data amendments and access control).

v. Supervision

- Require managers or supervisors to make spot checks on the operations and business transactions as appropriate to deter and detect irregularities.
- Establish an information management system whereby the staff are required to report regularly the major business activities and trends to the senior management and the board of directors, as appropriate, to facilitate monitoring.

vi. Feedback Channels

- Establish a user-friendly channel, pledging confidentiality for feedback from both customers and staff on the activities or operations of the company.
- Assign an independent staff member at the appropriate level to investigate into any irregularities reported to ensure impartiality.

vii. Reporting of Suspected Corruption or Fraud

- Report any suspected corruption to the ICAC and suspected crime such as fraud to the Police.

viii. Internal Audit

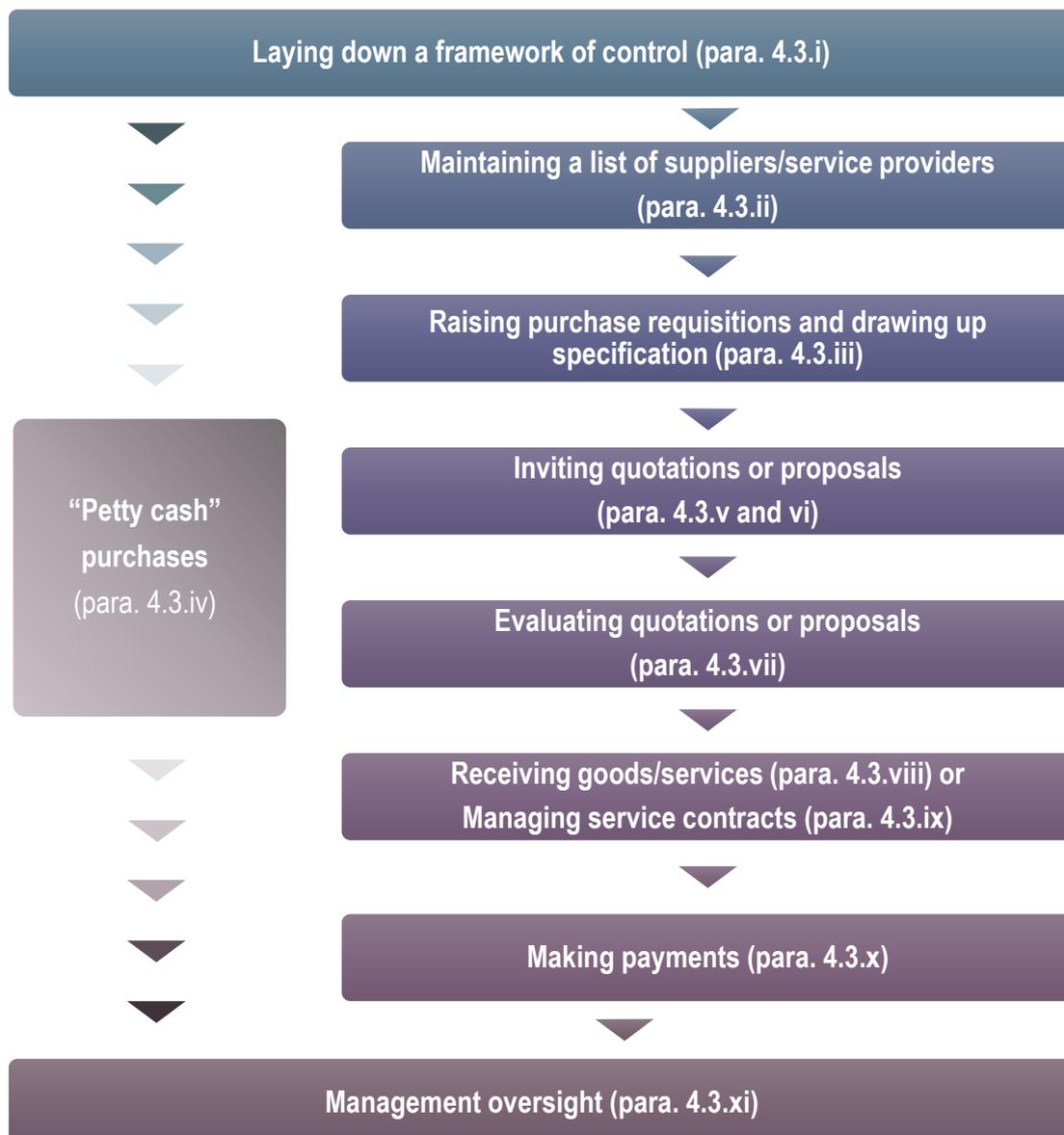
- Put in place an internal audit function to independently evaluate the effectiveness of risk management, control and governance processes.
- Ensure that the internal audit function:
 - is independent from the operation under audit, sufficiently staffed by staff of appropriate qualification and training, has unfettered access to all records, assets, personnel and premises, and to obtain such information and explanations as and when considered necessary;
 - develops an audit programme setting out the auditing assignments to be performed and conducts regular review on the programme taking into account the risk of key business processes; and
 - reports directly to the Audit Committee, if established, or the senior management and draws their immediate attention to any significant irregularities detected in the course of audit review.
- Give due consideration to the opinions and findings of the internal audit function and take timely actions in response to its recommendations/findings.

4 PROCUREMENT

4.1 INTRODUCTION

Procurement is a key business function in all companies but most prone to corruption and malpractice. To achieve the best value for money and prevent impropriety in the procurement process, it is essential for the company to have a sound and competitive procurement system in place. This Chapter provides a checklist of effective measures to control procurement processes.

4.2 KEY PROCESSES



4.3 RECOMMENDED CONTROLS/PRACTICES

i. Framework of Control

- Lay down the procurement policy and procedures.
- Remind the staff involved to declare conflicts of interest and manage them properly.
- Establish a central procurement unit (if resources allow) to undertake and monitor procurement activities.
- Designate approving authorities for purchases of different values.
- Segregate duties as far as possible (e.g. assign different staff to raise purchase requests, source suppliers, receive goods, and make payments).
- Rotate the duties of procurement staff, where practicable.
- Exercise budget control and ensure that all purchases are within budget, unless approved by the fund controller or the approving authority with reasons.
- Adopt competitive bidding methods to obtain the best value for money.
- Set out the procurement methods for purchases of different values and types as follows:
 - “petty cash” purchases – for low value purchases not exceeding a preset limit. Users may purchase from a single supplier without seeking quotations.
 - invitation for quotations – for purchases exceeding the petty cash purchase limit. The required number of quotations should be sought (e.g. at least three) from selected suppliers (preferably from a list of approved suppliers if there is one).
 - invitation for tenders or proposals – for high-value purchases or where service quality or technical aspects are important considerations. Proposals or tenders should be invited from a minimum number of suppliers or service providers (e.g. at least five) on the approved list (if applicable) or pre-qualified.
- Specify the approving authority for special cases (e.g. the minimum number of quotations cannot be obtained due to urgency or a sole supplier situation).
- Maintain purchase records, including the quotations invited and received, decisions and justifications for selection of suppliers/service providers, and keep the records for audit purpose.
- Use a computer system to record the details of each purchase if resources permit as the database could facilitate management monitoring and analysis of procurement trends to detect irregularities or red flags.

ii. Maintain Lists of Suppliers or Service Providers

- Maintain lists of approved suppliers or service providers for recurrently required goods and services, categorised by their types.
- Require the purchasing staff to invite suppliers or service providers on the list for bidding, adhering to the fair share principle, and give justifications for any deviations from this rule.
- Provide a channel for new suppliers or service providers to apply for inclusion in the relevant lists.
- Lay down the criteria for inclusion in the lists (e.g. track record, and past performance) and specify the authority for approving the criteria and inclusion to the lists.

- Evaluate the performance of suppliers and service providers by collecting feedback from users and take it into account in future procurement exercises.
- iii. Purchase Requisitions and Specifications**
- Design a standard requisition form (if appropriate) for recording the specification and quantity of the goods or standard of service required, the expected date of delivery, the names and signatures of the requesting staff and approving authority.
 - Assign a more senior staff of the user department or the central procurement unit (if any) to vet the goods or service specifications to ensure that they are not too restrictive to put off competitive bids.
 - Include the specifications in the invitation for bids.
 - Consider letting term contracts for the provision of goods or services that are frequently and repeatedly purchased (e.g. office supplies, raw materials, maintenance services).
- iv. “Petty Cash” Purchases**
- Allow the designated staff member of a department or unit to keep a petty cash account with a preset limit, and lay down the procedures and authorities for replenishment.
 - Require payments or reimbursements be made against invoices or receipts, or require the staff concerned to sign on a claim form if it is impractical to obtain a receipt.
- v. Quotations**
- Invite written quotations as far as possible.
 - Invite suppliers and service providers on the approved lists to bid and include those not on the lists only with justification and approval.
 - Take measures to prevent leakage of information or tampering with quotations (e.g. receive electronic quotations through a designated mailbox with restricted access).
 - Designate a staff member to securely keep all quotations received until the closing time.
 - Keep copies of the quotations received for checking if necessary.
 - Require the procuring staff to seek special approval from a higher level of authority with justification for not selecting the lowest bid, and to keep records of such decisions.
- vi. Invitation for Tenders or Proposals (if price is not the only criterion)**
- Consider forming a panel (comprising members from the user department, procurement department and any specialist or technical department where appropriate) to pre-determine the assessment criteria and select the supplier or service provider.
 - Invite suppliers or service providers on the approved lists to bid or consider inviting bids openly through the company website or newspaper advertisement as appropriate.
 - Include in the tender/proposal invitation specifications of the product or service, assessment criteria, terms and conditions of contract if any, and information required (e.g. experience, proposals of product performance or service level, price offer, management plan where applicable).

- Draw up a marking scheme, if practicable, with weightings given to the price offer and technical proposals (e.g. the proposed standard of service) to arrive at a total score.
- Ensure that all bidders are given the same information.
- Require bidders to submit proposals in duplicate and in sealed envelopes.
- Keep the tenders/proposals under lock before the closing time (or with password control if they are submitted electronically) and pending assessment.
- Assign at least two staff members to open the proposals immediately after the closing time, and keep the duplicate copies of the tenders/proposals for future checking if necessary.

vii. Evaluation of Proposals

- Conduct evaluation according to the pre-determined criteria or the marking scheme, and require the panel members to record their assessments independently on an evaluation form or scoring sheet.
- Invite bidders to give a presentation to the panel if the proposals are complicated.
- Select the bidder with the highest score (i.e. the best offer), otherwise special approval should be required with justification.

viii. Receipt of Goods and Services

- For each purchase (except petty cash purchase), issue a serially numbered purchase order specifying the items, specifications, quantities, prices, etc., after verifying proper approval and supporting documents. For receipt of goods, please refer to Chapter 7, paragraph 7.3.ii.
- For services, require the users to monitor the standard of service delivered, including quality and timeliness, and to certify completion on the invoice for payment purpose.
- Require supervisors to conduct random checks, if resources allow, on the quantity and quality of goods received or the standard of service delivered.
- Ensure that any defective goods, short delivery or substandard service are followed up with the suppliers or service providers promptly and are recorded for future reference.

ix. Administration of Service Contracts

- Specify in the contract agreement, among other terms and conditions, the service standards (e.g. quality and frequency of service, minimum manpower, remedies for non-conformance, such as rectification within a specified time limit or payment deduction, liquidated damages).
- Include in the contract conditions a probity clause prohibiting the contractor's staff from offering, accepting or soliciting bribes when performing duties under the contract.
- Assign staff to monitor the standard of service and make reports on any deficient or default service, preferably using an inspection checklist designed for this purpose.
- Collect user feedback on the contractor's service standards.
- Establish disciplinary procedures to deal with non-conformance or unsatisfactory performance of the contractor.
- Hold regular meetings with the contractor's management to discuss problems and review performance.

- Ensure that contract renewal is based on good performance, ask the user and procurement departments to assess the availability of other competitive alternatives before contract renewal, and conduct a fresh tender exercise to source a new contractor where appropriate.
- x. **Payment for Purchases**
- Payments should be handled by persons not involved in the procurement or receipt of the goods/services as far as practicable, e.g. the accounting unit.
 - Verify invoices against purchase requisitions or purchase orders, confirm approving authority, and check accuracy of calculations.
 - Make sure invoices are certified by the user or recipient before payment.
- xi. **Management Oversight**
- Assign a manager to make spot checks to ensure that the laid down procurement policies and procedures are followed and require him to report irregularities (e.g. split orders to avoid seeking approval or significant price changes) to the senior management for action.
 - Where resources permit, produce regular management and exception reports on purchases (e.g. repeated purchases, purchases of substantial value, purchases from suppliers not on the approved list) to the senior management for review.
 - Assign staff independent of the procurement process to conduct periodic audits or engage an external auditor to do the job, including randomly contacting the suppliers to verify purchases and payments to prevent manipulation (e.g. bogus suppliers or undue late payments).

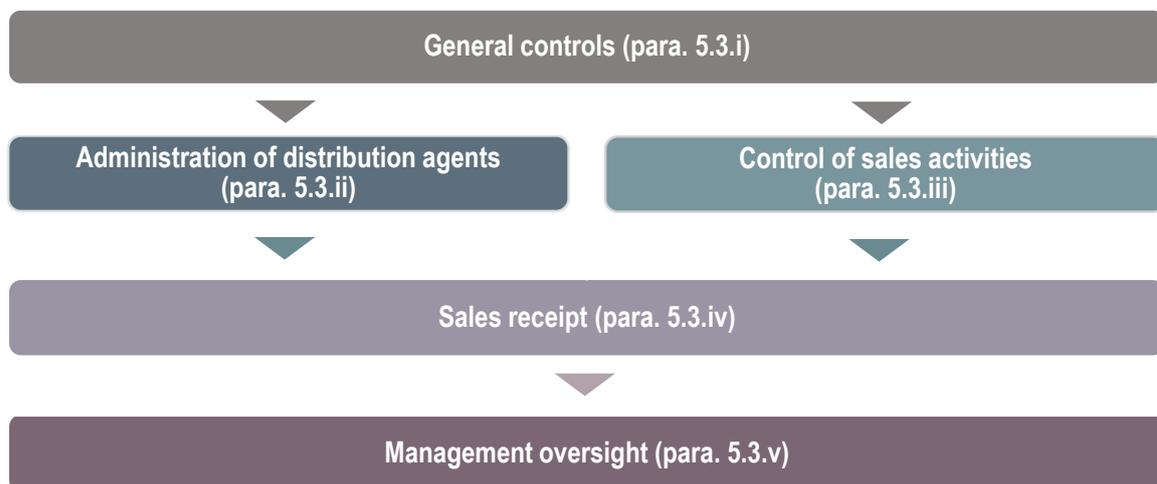
For more corruption prevention safeguards, companies may refer to the **Corruption Prevention Guide on Procurement** available at the following webpage – cpas.icac.hk/EN/Info/Lib_List?cate_id=3&id=199.

5 SALES OPERATIONS

5.1 INTRODUCTION

Sales and marketing activities are important business functions which directly affect the profits of a company. Sales staff are often given a certain degree of autonomy and flexibility to enable them to achieve sales targets set by the company. There are, however, risks of corrupt or improper practices associated with sales operations, such as abuse in the appointment of distribution agents and the supply of goods in demand, misappropriation of sales proceeds, or manipulation of sales incentive schemes, etc. This Chapter aims at recommending control measures to mitigate such risks.

5.2 KEY PROCESSES



5.3 RECOMMENDED CONTROLS/PRACTICES

i. General Controls

- Lay down sales policies, including discount policy, credit policy, sales commission policy, policy and criteria for appointment of sales agents, etc.
- Lay down the authorities and procedures for policy approval and for approval of exceptions to the rule.
- Segregate duties of sales operations as far as practicable, such as the making of sales, receipt of payments, maintenance of sales records, calculation of sales commissions, etc.
- Make sales information such as price, promotional offers if any, stock availability, credit policy, etc. known to all potential customers, if appropriate.
- Prohibit the company's staff from offering rebates or kickbacks to the customers' employees. For an agent sourcing or purchasing items on behalf of a customer, offer sales commission to the former only after ascertaining that this is permitted by the customer.

- Make clear to all staff the policy that customer data can only be used in connection with the company's business, restrict access to customer data strictly on a need basis, and put in place appropriate access control to prevent abuse (e.g. access control rights, audit trail of access).
- Where resources allow, use a computer system to automate/manage sales processes, including recording of sales transactions, control over prices and discounts, and calculation of sales commission, etc.
- Provide a channel (e.g. the customer service hotline) for customers to make enquiries or complaints about sales transactions, invoices and payments.

ii. Administration of Distribution Agents

- Where practicable, make transparent the company's policy, criteria and conditions for the appointment of distribution agents (including retail outlets).
- Require appointments of agents be approved by the designated senior staff.
- Include an anti-bribery clause in the terms of appointment, prohibiting the offer, solicitation or acceptance of bribes in connection with the sale of the company's goods.
- Lay down the policy for the fair supply of goods (in particular those in demand) to the appointed distribution agents.
- Review the distribution agents' performance when considering renewal of their appointment.

iii. Control of Sales Activities

- Set out the range of discounts or other benefits that may be offered (for each type of goods) by salespersons of different levels or by individual salespersons.
- Specify the criteria for offering discounts or benefits (e.g. the type of customers) in guidelines, where practicable.
- For any sales promotion campaign or offer, define the eligibility criteria and conditions, issue clear instructions to the sales staff, and make the arrangements known to all customers.
- Keep proper records of all sales transactions, including details such as the date, item of goods, customer's identity, price, discount if any, the outlet concerned, staff responsible for the sale, and invoice or receipt number, etc.
- Require outdoor salespersons to maintain activity logs, recording all sales-related activities, such as the customers contacted or visited and the outcome.
- Put in place a system for stock control of promotional items, in particular those with value or good for resale (e.g. gifts and coupons), and conduct random or full reconciliation checks between the issue and sales records (e.g. against the receipt numbers).

iv. Control of Sales Receipt

- Segregate the duties of cash receipt, recording and calculation of receipts, bank deposit, bank statement reconciliation, and bookkeeping as far as practicable.
- Where resources allow, assign a supervisor or another staff member to oversee the cash receipt process, in addition to his other duties such as recording of receipts.

- Where practicable, place the cash receipt point (e.g. the cashier) in a visible area to facilitate monitoring by supervisors or other staff.
- Allow only one cashier to operate a cash register in any given period and require cash counting during handover of cashier duties.
- Conduct surprise checks on cash on hand (e.g. cash in a register).
- Sequentially number sales receipts, which should contain adequate details of the sales transactions, including the sales items, price, and any discounts and promotional offers (e.g. gifts). The printing of receipts should be computerised where practicable.
- Investigate any missing sales receipts.
- Remind the sales staff to issue receipts that accurately reflect the actual amount received and prohibit falsification of the amount of receipt (i.e. inflation or understatement of the sales price).
- Require cash and cheque receipts to be banked daily to minimise risks of embezzlement or misuse.
- Assign supervisors or staff independent of the cash receipt and bank deposit processes to verify the deposit slip and bank statement against the cash register.
- Regularly verify accounting records (e.g. actual payments received, accounts receivables, and actual commissions paid) against sales records.

v. **Management Oversight**

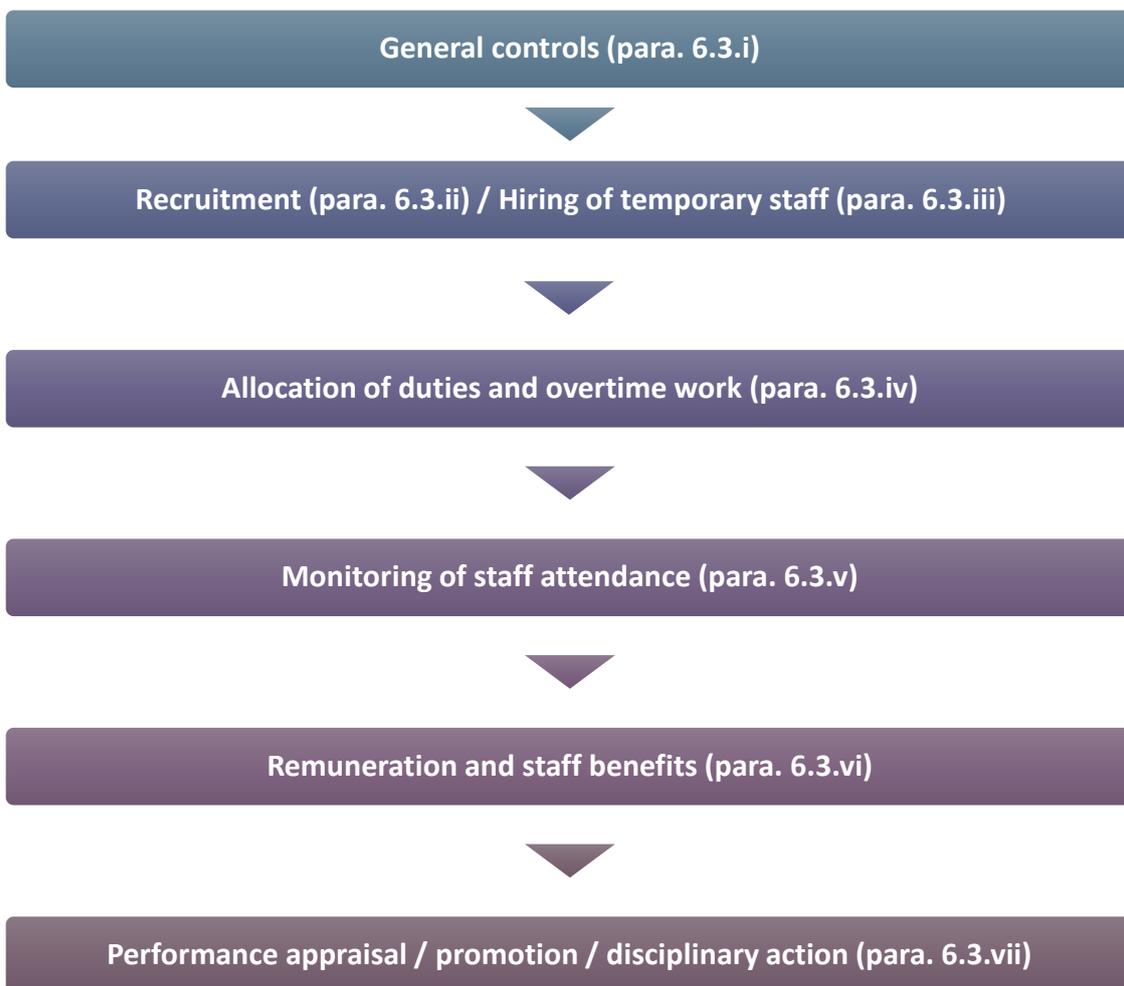
- Require managers and supervisors to monitor rigorously the sales activities and conduct spot-checks on the sale transactions, records and invoices to ensure that pricing of goods, offer of discounts and credit offers, and eligibility for promotional offers, etc. are in compliance with the laid down policy and criteria.
- Assign a staff member or a unit separate from the sales function to conduct random verifications with the customers (which may form part of a customer satisfaction survey) on sales transactions, in respect of the price, discount, promotional offer or other benefits, payments, etc.
- Produce regular reports on sales activities (e.g. sales performance of different products, outlets, the sales staff responsible, and the sales commissions paid) for management review.
- Produce exception reports on special sales transactions (e.g. excessive discounts, long overdue payments, or written-off accounts) for review by the senior managers who should initiate an investigation into any unusual patterns.

6 STAFF ADMINISTRATION

6.1 INTRODUCTION

Human resources (HR) are invaluable to a company. Management of HR, including hiring and firing of staff, allocation of duties and overtime work, performance monitoring and appraisal, etc., is therefore important to ensure that only qualified persons are recruited, suitably deployed, and properly administered. This Chapter recommends measures to ensure that the said processes are adequately controlled and the staff involved are accountable.

6.2 KEY PROCESSES



6.3 RECOMMENDED CONTROLS/PRACTICES

i. General Controls

- Segregate duties as far as possible, such as staff recruitment, supervision of performance including attendance and overtime work, and payment of wages.
- Require the HR department to maintain up-to-date personnel records and restrict access to authorised HR staff only.
- Include in the employment contract a standard clause requiring compliance with the company's Code of Conduct, and issue to each staff member a copy upon appointment.
- Organise training on conduct and corruption prevention awareness for the staff, with ICAC's assistance.
- Set out the duties and core competency requirements for each post.

ii. Recruitment

- Make sure all staff recruitment and dismissal are done through the HR department.
- Require the staff involved in the recruitment process to declare any conflict of interest (e.g. personal relation with a candidate) and, upon receiving such a declaration, assign a different staff member to do the job or if his technical input is necessary, require the staff concerned to abstain from making decisions on the selection.
- Lay down the job description, qualification and experience required for the post, and seek the senior management's approval as necessary.
- Conduct open recruitment exercises as far as practicable.
- Require the HR department to vet all candidates' applications (whether through open recruitment or referred by staff or agencies) against the laid down basic requirements before shortlisting them for interviews.
- Appoint a recruitment panel (comprising both managerial staff of the user and HR department) to conduct interviews, assessment and selection of candidates.
- Pre-determine the selection criteria and prohibit modifications to the criteria during the interviewing process to suit a particular candidate.
- Where the company accepts referral of candidates by employees, prohibit the latter from accepting any advantage from the candidates, and require them to declare his relationship with the candidate at the outset.
- Document the assessment of each candidate, preferably using a form designed for this purpose.

iii. Hiring of Temporary Staff

- Require requests for temporary staff to be approved by managerial staff at the appropriate level with justification, and endorsed by the HR department as necessary.
- Set standard hourly or daily rates for temporary jobs.
- Where regular demand for temporary staff is anticipated, maintain a pool of suitable candidates to be recruited through proper procedures and allocate work to them on a fair share principle.

iv. Allocation of Duties and Overtime Work

- Establish a fair and transparent system for the allocation of duties that attract extra earnings (e.g. overtime duties) or whose nature is onerous.
- Require overtime work to be approved by managerial staff at the appropriate level with justification and require an estimation of the amount of overtime work.
- Maintain a staff duty roster to facilitate monitoring and fair allocation of such duties.
- Produce periodic reports on the overtime duties allocated for management review as necessary.

v. Monitoring of Staff Attendance

- Use an electronic attendance recording system (e.g. mobile device, smart card access system, biometric recognition) for recording staff attendance.
- Place the attendance recording device in an open area and assign a supervisor to monitor attendance recording at the beginning and end of each shift.
- Retain attendance records for a reasonable period of time to facilitate checking.
- Require managerial staff to conduct surprise checks on staff attendance, including night duties and at remote sites.
- Assign an independent unit (e.g. accounting or HR unit) to review overtime claims.
- Analyse and compare periodically the output of units, man-hours and overtime worked with a view to identifying unusual trends for scrutiny.

vi. Remuneration and Staff Benefits

- Lay down the salary range or rates for each post or job, and require any offer exceeding the specified limit to be approved by the senior management.
- Lay down the criteria and mechanism for salary and rate adjustments and for determining any non-standard payments (e.g. year-end bonus or sales commissions).
- Lay down and make known to the staff any other benefits available (e.g. housing loans, subsidies and travel allowances), the eligibility criteria, and procedures for application.
- Require any adjustment of staff salaries and rates, non-standard payments and other benefits to be approved by the senior management.
- Adopt a fair allocation mechanism (e.g. by ballot or use a scoring system based on years of service, etc.) if allocation of staff benefits, such as staff quarters, is subject to a quota.

vii. Performance Appraisal, Promotion, Disciplinary Action

- Lay down and make known to all staff the core competency requirements and performance standards of each post.
- Design standard appraisal forms for use based on the laid down core competence and performance standards.
- Require that appraisal reports be made by the immediate supervisor and counter-signed by a more senior staff member or the unit/department head.
- Allow the staff being assessed to read their appraisal reports and give them a chance to be interviewed by the supervisor or more senior staff as necessary.

- Lay down and make known to the staff the assessment criteria for promotion (which should be based on core competencies and performance standards).
- Appoint a panel to assess eligible candidates for promotion and properly document the assessments or deliberations.
- Lay down the disciplinary actions that may be taken in respect of misconduct or breaches of discipline, and make the policy known to all staff.
- Establish the procedures for dealing with disciplinary actions, which should involve both the senior management of the operational unit concerned and the HR department.
- Ensure fairness in taking disciplinary actions.

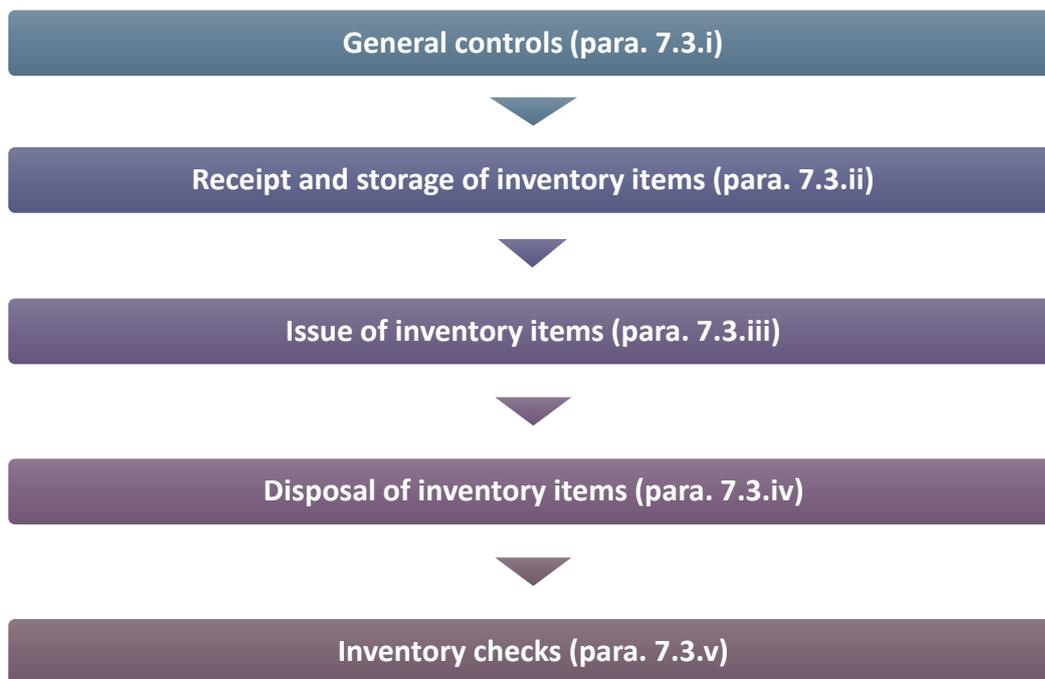
For more corruption prevention safeguards, companies may refer to the **Corruption Prevention Guide on Staff Administration** available at the following webpage – cpas.icac.hk/EN/Info/Lib_List?cate_id=3&id=220.

7 CONTROL OF INVENTORY AND COMPANY PROPERTY

7.1 INTRODUCTION

A company's assets include inventory items (saleable goods) and other property items such as computer equipment, office equipment and company cars. The staff having access or control over such assets may be tempted to misappropriate or misuse them for personal gain, resulting in loss to the company. This Chapter provides a checklist of control measures to prevent misappropriation or misuse of company assets.

7.2 KEY PROCESSES – INVENTORY ITEMS



7.3 RECOMMENDED CONTROLS/PRACTICES – INVENTORY ITEMS

i. General Controls

- Lay down the procedures for inventory management, including receipt, storage and security, replenishment, issue, and disposal of inventory items, inventory checks and handling of discrepancies and amendments of inventory records, etc.
- Specify the authorities for inventory management functions (e.g. issue of stock, disposal of inventory items, writing off and amendment of inventory records).
- Clearly define the roles and duties of the staff responsible for inventory management, e.g. storekeeper, procurement and accounting staff.

- Segregate duties as far as possible, such as purchasing, receipt and issue of inventory items, maintenance of inventory records, stocktaking, approval for disposal, etc.
- Prohibit the staff given access right to the stock to amend inventory records.
- Maintain proper inventory records, including:
 - data to identify each item or batch of items, including item code, batch number, description, and other important information such as expiry or validity date;
 - stock movement transactions, including date, item removed, quantity, voucher reference, the names of issuing or receiving staff, location, etc.; and
 - stock balance of each type of items.
- Use a computerised inventory management system for recording the above information and transactions, if resources allow; and consider using barcode or radio frequency identifier technology to further enhance control if necessary.
- Require the accounting department to maintain independent accounting records on the inventory items and conduct monthly reconciliation with the inventory records.

ii. Receipt and Storage of Inventory Items

- Give advance copies of purchase orders to the warehouse staff for any expected delivery of goods.
- Require the warehouse staff to inspect the goods received against the specification and quantity shown in the purchase orders and certify receipt on the invoices or delivery notes if in order.
- Consider assigning the procurement staff or supervisor to oversee the process and counter-sign the receipt in case of goods of large quantity or high-value.
- Require the warehouse staff to report any excessive ordering of goods, any short delivery, or defective goods to the managerial staff.
- Ensure that there is adequate physical security to safeguard the items in stock (e.g. to keep high-value items under lock and restrict access by installing electronic access control or using locks with keys that cannot be easily duplicated).
- Install CCTV systems with recording functions to monitor the store entrances and premises within, if resources permit and as necessary.
- Ensure that access control passwords or keys are replaced upon staff changes.

iii. Issue of Inventory Items

- Require the receiving staff to present an inventory request form approved by the appropriate authority and certify receipt.
- Require the responsible staff to update the inventory records promptly.
- Strictly require stock items to be issued on a “first-in first-out” basis, particularly for items with an expiry date or a limited shelf life.

iv. Disposal of Inventory Items

- Require the disposal of inventory items (e.g. obsolete, damaged, or slow moving stock) and the disposal methods (e.g. destruction, disposal by sale by auction or donations) to be approved by designated managerial staff not involved in the stock-keeping process.
- Seek price quotations through competitive means if the items are to be disposed of by sale.
- Require all disposals to be properly recorded, showing the approving authority, date of disposal, and any proof as appropriate (e.g. receipts of sale).
- Require supervisors or assign independent staff to conduct random checks on the items recommended for disposal to verify their conditions and quantity, and to inspect randomly the disposal process.

v. Inventory Check

- Assign independent staff (e.g. staff of the accounting department) to conduct periodic inventory checks or stock-taking.
- Require warehouse supervisors to carry out surprise inventory checks, in particular on high-value items.
- Conduct stock-taking when handing-over store-keeping duties.
- Estimate the normal wastage of various types of inventory items based on actual operational experience and initiate an enquiry if there is any abnormal stock depletion.
- Require all inventory record adjustments to be explained and approved by designated managerial staff.
- Produce periodic and year-end reports on inventory control for management review (e.g. stock in-take, issue, wastage, disposal, any profit or loss arising from disposal, etc.).

7.4 RECOMMENDED CONTROLS/PRACTICES – COMPANY PROPERTY

This section focuses on company property such as computers, office equipment, or company cars, etc. made available for use by staff in conducting the business of the company. It does not cover intellectual property, office supplies and consumables of low value.

i. General Controls

- For each type of property items, assign an “owner” department to be responsible for their overall control and management.
- Produce regular reports on all company property for management information (e.g. the property written off or reported loss or damaged, and any profit or loss arising from disposal).

ii. Recording and Issuing of Property

- Lay down the approving authorities and procedures for issuing property items to users.
- Maintain a register or database to record individual property items, including a unique identification number, description (e.g. brand and model number), manufacturer’s serial number (if any), current user, location, dates of manufacture and issue, value, etc.
- Label the property with the identification number where practicable.

- Require the user or receiving staff to acknowledge receipt upon issue.
- Require the movements or transfers of items to be made through the “owner” department (e.g. computer equipment through the IT department), or promptly inform the “owner” department for updating the property register or database.
- Ensure all personal-issue of items be returned upon the staff leaving the company (e.g. computers or company cars) or upon transfer to a post which does not require the use of the items.

iii. Inspection and Updating

- Assign staff of the appropriate level to conduct annual stock-taking and inspection on valuable property items against the property register or database.
- Report any missing items or irregularities to the management for an enquiry and follow up action.

iv. Disposal

- Require disposal of property items (e.g. which are obsolete, not functional or beyond economical repair) and the disposal methods (e.g. destruction, sale or donation) to be approved by managerial staff of the appropriate level in the “owner” department, and proper recording of justifications and supporting proof if any (e.g. inspection report by maintenance contractor).
- Require supervisors, the approving authority or independent staff to monitor the process as described in paragraph 7.3.iv.

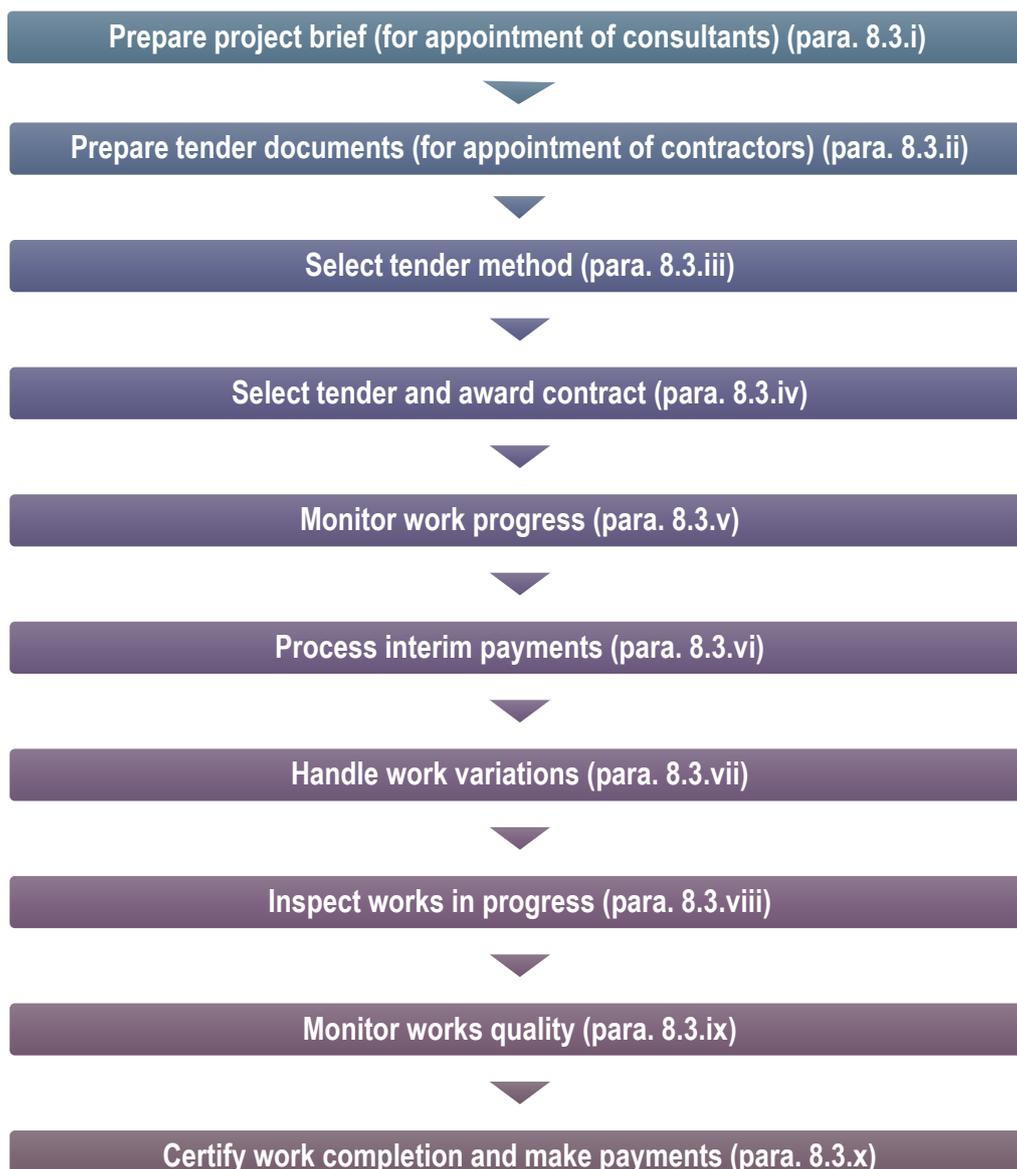
For more corruption prevention safeguards, companies may refer to the **Corruption Prevention Guide on Stores Management** available at the following webpage – cpas.icac.hk/EN/Info/Lib_List?cate_id=3&id=195.

8 BUILDING MAINTENANCE

8.1 INTRODUCTION

Some companies may need to undertake office renovation and building repair works. These works may be carried out by the company's in-house staff or by external consultants and contractors managed by the in-house staff. As these works often involve substantial values, the staff are vulnerable to corruption – they may be offered bribes in return for collusion in the selection of consultants/contractors and acceptance of substandard works or materials. This Chapter underscores the measures for minimising risks of malpractice and corruption.

8.2 KEY PROCESSES



8.3 RECOMMENDED CONTROLS/PRACTICES

i. Prepare Project Brief for Appointment of Consultants

- Clearly define the scope of service (a sample list of service scope for a maintenance works consultant is at **Appendix 4**).
- Specify the deliverables and payment arrangements (e.g. staged payments).
- Include in the Terms and Conditions of the Agreement the following probity clauses –
 - an anti-bribery clause prohibiting offer, solicitation or acceptance of bribes by the consultant and his directors and staff when performing duties under the agreement.
 - a clause requiring the consultant and his directors and staff to declare any conflict of interest, including their relationship with the contractors engaged for the works contracts or with the director/staff of the company.

ii. Prepare Tender Documents for Appointment of Contractors

- Draw up detailed work specifications.
- Include in the tender conditions the following probity requirements –
 - an anti-bribery clause prohibiting offer, solicitation or acceptance of advantage to employees of the company for the purpose of tendering.
 - an anti-collusion clause prohibiting price rigging.
- Invite tenderers to make price offers according to a pricing schedule for work items to facilitate evaluation of competing bids and valuation of cost for subsequent works variations.
- Require tenderers to propose an outline of works programme.
- Include the following Terms and Conditions in the contract –
 - provisions for interim payments for prolonged works.
 - amount of and conditions for retention money (e.g. about 10% of the interim payment).
 - defect liability period¹.
 - criteria and conditions for extension of time².
 - conditions for liquidated damages, e.g. for late work completion.
 - provisions for work variations³.
 - material guarantees.
 - insurance.
 - anti-bribery clauses prohibiting offer, solicitation or acceptance of advantage by the contractor and his employees in executing the contract.
 - clauses requiring the contractor and his employees to declare conflict of interest.
 - right to and conditions for termination of contract.

¹ After work completion, there should be a “defect liability period”, similar to a warranty period, during which the contractor has the responsibility to make good any defects in or arising from his work, such as plaster cracking, doors and windows not closing properly, etc.

² An extension of time may be granted to the contractor if failure to complete any maintenance works by the agreed date, is caused by factors outside the contractor’s control.

³ Variations mean changes to the specified works or additional works not included in the contract.

iii. Select Tender Method

- Select the tender method by taking into consideration the factors shown in Table 1 below.

Tendering Method	Factors for Consideration
Open Invitation for Expression of Interest	<ul style="list-style-type: none"><input type="checkbox"/> Usually for tendering of high value contracts.<input type="checkbox"/> A method to source eligible consultants/contractors and explore what is available in the market.<input type="checkbox"/> The company has time and resources to conduct an open invitation.
Invitation of Tenders from a Shortlist	<ul style="list-style-type: none"><input type="checkbox"/> The company has a shortlist of consultants/contractors who have been previously engaged or recommended by a trusted party.<input type="checkbox"/> The company entrusts the consultant to recommend a shortlist of contractors.<input type="checkbox"/> The company has in-house expertise to draw up a shortlist.
Single Tender	<ul style="list-style-type: none"><input type="checkbox"/> Only for exceptional cases, with sound reasons such as urgency and safety considerations which cannot afford a tendering process.

Table 1 – Tendering Method

iv. Select Tenders and Award Contract

- Refer to the checklist for procurement (Chapter 4 para. 4.3. (vi) & (vii)).
- Require the tenderers to submit the following information for evaluation of the technical/quality aspects of tender proposals –
 - work experience;
 - number of qualified professionals employed;
 - track record in providing similar maintenance works; and
 - programme of works.
- Apart from the shortlist mentioned in paragraph 8.3 (iii) Table 1, make reference to the lists of professionals and contractors published by the relevant government departments or professional bodies, when compiling the list of contractors for invitation to tender. Examples:

List	Department	Services suitable for ...
Registered General Building Contractors	Buildings Department	Structural or major maintenance work
Fire Services Installation Contractors	Fire Services Department	Fire services equipment and installation
Authorised Persons	Buildings Department	Consulting work

- Approach previous clients of the contractors under consideration for testimony of their previous performance as appropriate.
- Award contract to the best offer.

v. Monitor Work Progress

- Require the contractor to submit a work programme at the start to facilitate monitoring of work progress (the programme should show the deliverables at different stages up to the scheduled completion date as specified in the contract).
- Appoint a project manager (with technical or professional knowledge) within the company to monitor the progress of the works, reporting to the senior management regularly.
- Require the consultant, if one is engaged, to report progress of works regularly.
- Require the project manager to hold regular meetings with the contractor, together with the consultant if any, to review work progress and any rectification work required, etc.
- Require the contractor to explain any delay and propose remedial measures.

vi. Process Interim Payments

- Make interim payments to the contractor according to the contract terms.
- Require the consultant, if one is employed, to issue work completion certificates for making interim payments.
- Require the project manager to confirm satisfactory completion of works covered by the interim payment before endorsing release of interim payments for in-house managed works.
- Retain a portion of interim payments (e.g. 10%) as retention money in accordance with the contract terms.
- Submit regular financial reports on the project to the senior management for monitoring.

vii. Handle Work Variations

- Minimise the need for work variations (which entail special rates to be negotiated with the contractor) by including all foreseeable maintenance works in the scope of works at the outset as far as possible.
- Put in place the following safeguards for ordering work variations –
 - require the project manager to assess the need for and the scope of the proposed variations or on the advice of the consultant, if one is engaged.
 - require the contractor to provide quotations on the rates for the proposed variations, which should be based on the schedule of rates in the contract (if applicable).

- specify the approving authority for the issue of variation orders.
- consider inviting new tenders for the work variation if the scope or cost involved is substantial or disproportionate as compared to the original scope or value of the work project.
- require the project manager or the consultant to submit regular reports on variations to the senior management for monitoring.

viii. Inspect Works in Progress

- For prolonged work projects, require the project manager with the support of technical/professional staff, or the consultant if one is appointed, to draw up a site supervision plan based on the contractor's works programme, specifying the frequency of site inspections, work items for checking and the personnel involved.
- Require regular reporting of work progress to the management.

ix. Monitor Quality of Works

- Require the project manager and his team, or the consultant if there is one, to check quality of works according to the site supervision plan.
- Require the site inspection staff or the consultant to take photos of the works which will be covered up after completion as evidence of compliance with the quality requirements, where appropriate.
- Require the site inspection staff or the consultant to record and report adverse observations, in particular any substandard works or default in deliverables.
- Require the contractor to rectify any substandard work or make good the pledged deliverables before release of payment.

x. Certify Completion of Works and Make Payments

- Require the project manager or consultant to certify completion of all works as specified in the contract.
- Require the project manager or consultant to carry out a final inspection on the completed works, requiring the contractor to compile a list of defects for follow up action.
- Make final payment upon certification of work completion by the project manager or consultant, except the retention money.
- Require the contractor to make good all the defects identified within the defect liability period before releasing the retention money to the contractor.

For more corruption prevention safeguards, companies may refer to the **Building Maintenance Toolkit** available at the following webpage – cpas.icac.hk/EN/Info/Lib_List?cate_id=3&id=313.

APPENDIX 1 ICAC Service and Other Assistance

1. INTRODUCTION

The ICAC stands ready to help private companies and organisations establish, strengthen and continually improve their anti-corruption controls/programmes that cater for their operational needs. The channels for reporting cases of suspected corruption are also provided below.

2. THE CORRUPTION PREVENTION ADVISORY SERVICE

The **Corruption Prevention Advisory Service (CPAS)** is a specialised unit in the Corruption Prevention Department of the ICAC dedicated to providing the following professional and free corruption prevention advice and services to private companies, organisations and individuals.

- providing confidential and tailor-made advice on anti-corruption management systems including the adoption of the recommended measures in the Guide; and corruption prevention measures for specific business operations on request;
- offering assistance in drawing up a Code of Conduct for the directors, staff and individual company/organisations and other probity guidelines (e.g. corporate policy/guidelines on reporting corruption and anti-corruption commitment);
- organising corruption prevention training for managers and relevant staff to raise their awareness of corruption risks and corruption prevention measures specific to their business operations; and
- answering any enquiries about this Guide.

For further information, please contact CPAS through the following channels

- Phone: 2526 6363
- Fax: 2522 0505
- Email: cpas@cpd.icac.org.hk
- Website: cpas.icac.hk/EN/



3. REPORTING CORRUPTION

Any person encountering corruption should make a report to the ICAC through the following channels –

Phone: 2526 6366 (24-hour service) **Mail:** G.P.O. Box 1000, Hong Kong

In Person: **ICAC Report Centre** (24-hour service)

G/F, 303 Java Road, North Point, Hong Kong

ICAC Regional Offices

(opening hours: 9:00 a.m. – 7:00 p.m. Monday to Friday;
closed on Saturdays, Sundays and public holidays)



APPENDIX 2

Extracts of Prevention of Bribery Ordinance (Chapter 201 of Hong Kong Laws)

Section 9 – Corrupt transactions with agents

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavor to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(2) Any person, who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavor to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document –

- (a) in respect of which the principal is interested; and
- (b) which contains any statement which is false or erroneous or defective in any material particular; and
- (c) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

(5) For the purposes of subsection (4) permission shall –

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 4 – Bribery

(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's –

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or

Extracts of Prevention of Bribery Ordinance (Chapter 201 of Hong Kong Laws)

- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

- (3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

Section 8 – Bribery of public servants by persons having dealings with public bodies

- (1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

Section 2 – Interpretation

“**Advantage**” means –

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;

- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e), but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

“**Entertainment**” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

Section 19 – Custom not to be a defence

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

APPENDIX 3

Sample Form for Making Declaration of Conflict of Interest

(Name of the company / organisation)

Declaration of Conflict of Interest

Part A – Declaration (To be completed by the Declarer)

To : (Approving Authority)

I have no conflict of interest, whether actual or potential, in discharging my official duties in relation to [insert the name of the project / exercise requiring positive declaration by the company], and undertake to declare any such conflict immediately when I become aware of it.#

(# For use only when there is a requirement for positive declaration)

I would like to report the following actual/potential* conflict of interest situation arising during the discharge of my official duties:

Person(s)/organisation(s) with whom/which I have official dealings and/or private interest
My relationship with the person(s)/organisation(s) (e.g. relative)
My contact with the person(s)/organisation(s) (Please state the frequency of contact and the usual occasions of contact, etc.)
Relationship of the person(s)/organisation(s) with the company (e.g. supplier)
Brief description of my duties which involved the person(s)/organisation(s) (e.g. handling of tender exercise)
File reference, if any, of the mentioned duties

(Date)

(Name of the Declarer)
(Title)

Part B – Approval (To be completed by Approving Authority)

To : (Declarer)

Part B(i) – In respect of the declaration in Part A of this form, it has been decided that:

The declaration as described in Part A is noted. You are allowed to continue handling the work as described in Part A, provided that there is no change in the information declared above.

You are restricted in the work as described in Part A (e.g. prohibit from handling the specific part/duty that you have conflict, withdraw from discussion on a specific issue/case).

Details: _____

You may continue to handle the work as described in Part A, but an independent person would be recruited to participate in, oversee or review part or all of the decision-making process (e.g. task another staff with the required expertise to provide objective assessment on the matter).

Details: _____

You are relieved of your duty as described in Part A, which will be taken up by another person (e.g. staff, expert) through redeployment.

Details: _____

You should relinquish the personal/private interest (e.g. cease to be a member of a club/association, divest the investments until the conflict situation described in Part A no longer exists).

Details: _____

Others (please specify) (e.g. you should not contact the person(s)/organisation(s) concerned until the conflict situation described in Part A no longer exists):

Details: _____

*Part B(ii) – The justification(s) for the measure(s) as described in Part B(i) above is/are:
(Factors of consideration including the materiality of the conflict, link between the conflict and the matter in question,
and any possible negative public perception over the conflict/incident.)*

In all cases, please be reminded that you should not disclose any privileged/internal information of the subject matter to the person(s)/organisation(s) concerned and should further report if there are changes in circumstances necessitating reporting.

(Date)

(Name of the Approving Authority)
(Title)

Part C – Keeping of Records (To be completed by the Declarer)

To : (Designated office/staff for keeping the completed declaration form)

Via: (Approving Authority)

I noted the decision in Part B. The completed form is for your retention please.

(Date)

(Name of the Declarer)
(Title)

*Potential conflict of interest refers to situation that may be developed into an actual conflict in the future.

APPENDIX 4

Sample Service Scope for a Works Consultant

- Conduct building condition survey and identify building defects.
- Provide professional advice on maintenance and renovation items.
- Liaise with relevant authorities for compliance with statutory requirements.
- Prepare tender documents, including drawings and specifications, for selection of contractors.
- Advice on the selection of tenders.
- Issue and receipt of tenders and handle tender enquiries.
- Analyse tenders and prepare reports to the clients with recommendations.
- Prepare contract documents, including drawings and specifications.
- Notify contractor of contract award on behalf of the clients.
- Supervise and report on progress and quality of maintenance works.
- Certify completion of works and handle payments and claims from the contractor.
- Monitor defect rectification.
- Oversee budget control.
- Handle dispute with contractor.