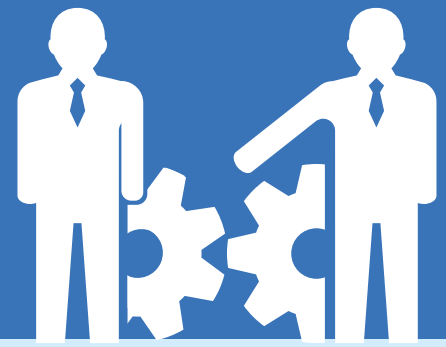


# Tips for SMEs

## — Managing Relationship with Public Servants



Small and medium enterprises (SMEs) often have business dealings with public servants in their day-to-day activities. This article reminds business operators of the relevant legal provisions and regulations that they should take heed of while having dealings with the public servants.

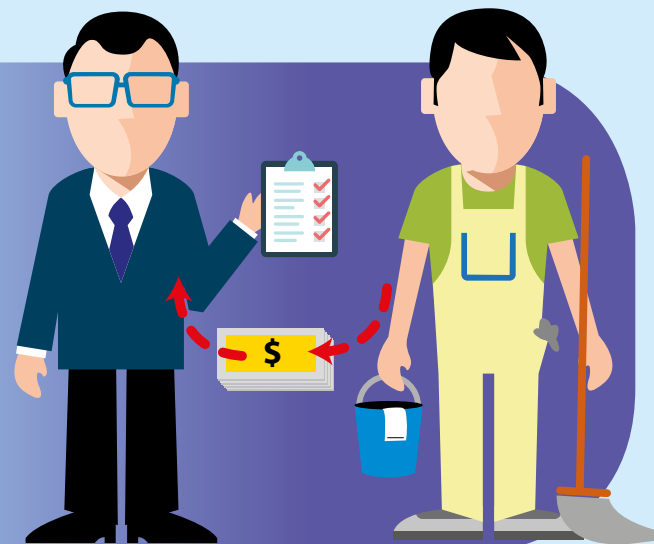
### Avoid offering advantages to public servants

Government officers, employees or members of public bodies are defined as public servants in the Prevention of Bribery Ordinance (POBO). SME operators often come into contact with public servants in their business dealings such as applying for licences and public services, subjecting to regulatory supervision and inspection, bidding and carrying out projects and services of government or public bodies, etc. While maintaining a good public-private partnership is important, business operators should also be aware that public servants are subject to stringent legal and regulatory controls on accepting advantages for ensuring impartiality at work. Business operators should never offer advantages to public servants in exchange for favours at work. Even if there is no intention to bribe, SME operators may still violate POBO if they offer advantages to public servants during official interactions.



#### Case Study

A cleaning contractor was responsible for providing cleaning services to a public body. In order to avoid fines to be imposed on the substandard cleaning work, the contractor paid over \$100,000 bribes to a cleaning inspector employed by the public body as a reward for his lax supervision. The contractor was found guilty of breaching **Section 4 of POBO** for offering bribes to the public servant. The cleaning inspector who accepted bribes was also found guilty of the same offence. Both were sentenced to imprisonment.



#### Case Study

A construction subcontractor was responsible for carrying out government road works, which required the approval of the traffic team of a law enforcement agency prior to commencement of the works. On the eve of the Mid-Autumn Festival, the subcontractor offered over a dozen boxes of mooncakes to an officer of the traffic team. The officer refused the offer and reported the matter to the ICAC. The subcontractor was found guilty of violating **Section 8 of POBO** and sentenced to imprisonment.

# 3 Smart Tips from iSir



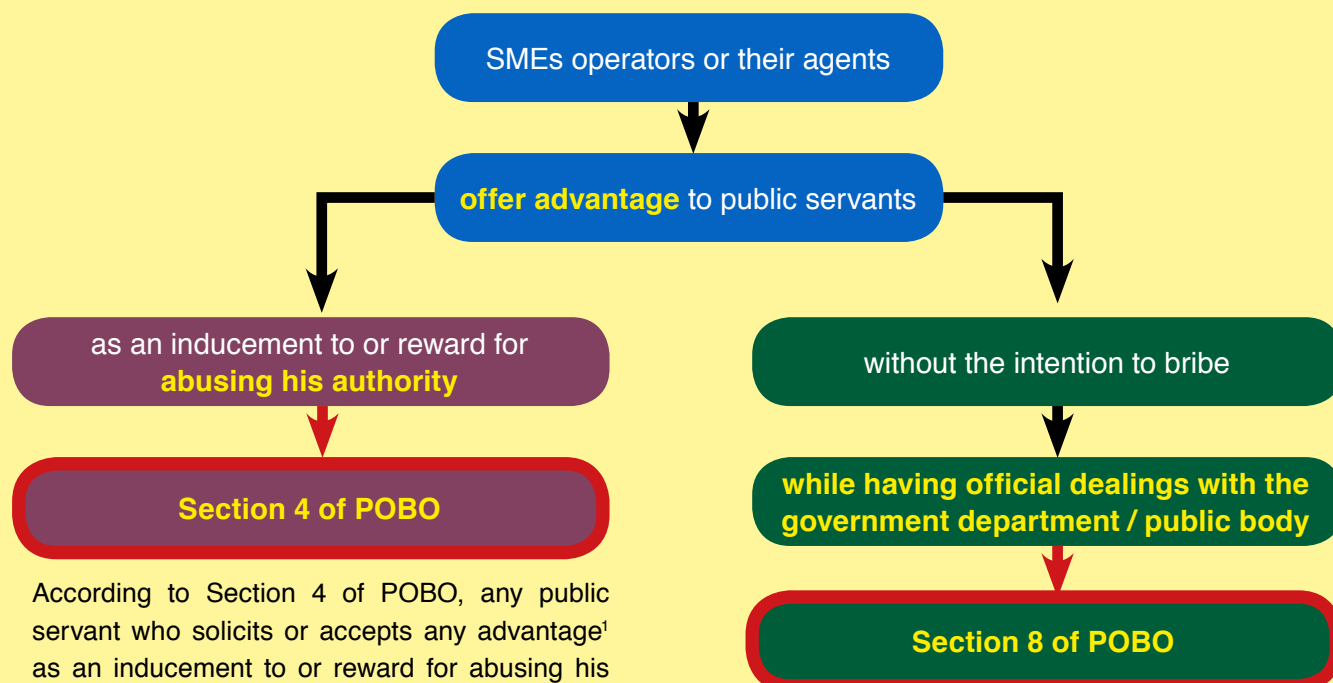
**1** Even without the intention to bribe, one should not offer advantage to public servants.

**3** Any discounts or favourable offers offered to public servants should also be available to other customers in general and not special offers for the public servants because of their official capacity.

**2** While entertainment is not an advantage<sup>1</sup>, one should avoid offering excessive meals or frequent entertainment to the public servants.



## Anti-Corruption Laws to Observe When Dealing with Public Servants



According to Section 4 of POBO, any public servant who solicits or accepts any advantage<sup>1</sup> as an inducement to or reward for abusing his official authority shall be guilty of an offence; the offeror of the advantage shall also be guilty of an offence.

<sup>1</sup> "Advantage" includes money, gift, loan, commission, office, contract, service, favour and discharge of liability in whole or in part, but does not include "entertainment". "Entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment provided at the same time.

According to Section 8 of POBO, it is an offence for any person, without lawful authority or reasonable excuse, while having dealings of any kind with a government department or a public body, to offer any advantage to any government officer employed in that department or public servant employed by that public body.

**The maximum penalty of the above offences is a fine of \$500,000 and seven years' imprisonment.**

Hong Kong Business Ethics Development Centre under the Community Relations Department of the ICAC offers free ethics training and consultancy services for business organisations. You are welcome to contact us for more information.



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