

By Fax: 2804 6870

CB1/PL/PS
2869 9244
2869 6794

3 April 2006

Ms Elizabeth TSE, JP
Director of Administration
Administration Wing
Chief Secretary for Administration's Office
12th Floor, West Wing
Central Government Offices
11 Ice House Street
Central
Hong Kong

Dear Ms TSE,

Panel on Public Service

Remuneration packages for senior executives of statutory bodies

On behalf of Hon TAM Yiu-chung, Chairman of the Panel on Public Service, I write to invite the Administration to provide written response to the recommendations of the Subcommittee on West Kowloon Cultural District Development (the Subcommittee) on the above subject.

The Subcommittee, in its Phase II Report, recommends the establishment of a statutory body immediately to spearhead the West Kowloon Cultural District Development. In this connection, the Subcommittee calls for the establishment of –

- (a) a mechanism to determine the remuneration packages for senior executives of statutory bodies; and
- (b) a mechanism for disclosure of their remuneration packages to enhance transparency and facilitate monitoring by the Legislative Council and members of the public.

For the above purposes, the Subcommittee is of the view that there is an immediate need to set up an independent panel to review comprehensively the remuneration packages of the staff of existing statutory bodies and to propose a mechanism for determining their remuneration, in particular the remuneration of executive heads. The review should also include what should be the proper authority for approving and making adjustment to the mechanism. The relevant extracts from

the Phase II Report of the Subcommittee (paragraphs 4.30 to 4.39, 6.27 to 6.30, and Appendix 4.2) are attached for your reference.

The Subcommittee has, before finalizing its Phase II Report, forwarded the draft report to the Administration for comments. On the recommendations mentioned above, the Administration drew the Subcommittee's attention that the Government had conducted a consultancy study in 2002 on the remuneration of senior executives of 11 statutory and other bodies. However, the Subcommittee considers that the consultancy study only aimed at examining the remuneration of the senior executives of those bodies, many of which are under constant criticism for lack of transparency in this respect. The Subcommittee is more concerned about the lack of a mechanism for determining remuneration which is applicable to all statutory bodies. The Subcommittee has then referred its recommendations to the Panel on Public Service for follow-up actions.

To facilitate the Panel to consider how the matter should be taken forward, the Chairman has directed me to invite the Administration to provide written response to the Subcommittee's recommendations on the above subject (paragraphs 4.37 to 4.39, and 6.30).

I should be grateful if you would let me have the Administration's written response (in both Chinese and English) **on or before 3 May 2006**. Please forward the softcopy of the written response to Ms May LEUNG at mleung@legco.gov.hk.

Please note that unless you raise objection, the Administration's written response may be made available to the media and public and placed in the Library of the Legislative Council. It may also be made available on the Web Site of the Council on the Internet.

Yours sincerely,

(Miss Salumi CHAN)
Clerk to Panel

Encl.

c.c. Hon TAM Yiu-chung, GBS, JP (Chairman)

**Extract from Chapter IV of the Phase II Report of the
Subcommittee on West Kowloon Cultural District Development**

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Financing of the statutory body

4.30 As mentioned in the previous Chapter, under the proposal contemplated by the Administration, the Successful Proponent is required to pay an amount of \$30 billion upfront to establish an independent trust fund. The amount is guesstimated on the basis that it would generate a recurrent return which would cover the net operating expenditure of CACF and other communal facilities as well as the recurrent cost of the statutory body. The annual recurrent cost of the new statutory body for WKCD is guesstimated to be some \$60 million. This financing arrangement is different from that for LDC and PAA. Both in the cases of the urban renewal development and the development of the Chek Lap Kok Airport, the Government provided the fund for the setting up and operation of LDC and PAA. A \$100 million loan facility from the Development Loan Fund was made available to LDC with LegCo's approval. In the case of PAA, again with LegCo's approval, a new head was created under the Capital Investment Fund with a commitment of \$20 million to finance its establishment and initial operation.

4.31 At this stage, the Administration is unable to provide details on the operation of the trust fund. Coupled with the fact that the scope of responsibilities of the statutory body has yet to be decided, there is insufficient information for the Subcommittee to assess if the guesstimated annual recurrent cost of \$60 million is adequate or not. The Subcommittee wishes to stress that financing should not in any way affect the roles and functions expected of the statutory body, or be an excuse to delay the immediate establishment of the statutory body.

Executive team to support the work of the statutory body

4.32 One of the factors that will affect the recurrent cost of the statutory body is its staff cost. Like all other aspects of the statutory body, the Administration has yet to decide how its supporting services should be provided. To ensure the independence of the statutory body, many deputations are of the view that this overseeing body should be served by an independent secretariat. Indeed, this is the approach adopted by many statutory bodies set up in the past 10 years. Examples include the Mandatory Provident Fund Schemes Authority, URA and HKADC. Depending on whether the statutory bodies take on executive or advisory functions, the size of their supporting secretariats varies greatly, as shown in Appendix 4.1. Given the wide ranging planning and executive functions expected to be performed by the statutory body for the WKCD project, the supporting services would need to be comprehensive. Since the WKCD project involves interests of various sectors, public perception of the statutory body being independent and impartial is important. The best way to project such public perception is by establishing an independent secretariat for the statutory body. An independent secretariat will enhance public confidence on the independent operation of the statutory body without undue influence from the Government.

4.33 Leading the independent secretariat of the statutory body is invariably the executive director. The executive director should be a leader, an administrator, and an executive – a leader because he will need to steer the work of the executive arm; an administrator because he will plan, formulate and administer the different aspects of work of the executive arm; an executive because he will be responsible for carrying out the policy set by the statutory body. The executive director assumes the overall co-ordinating role in putting in place the decisions of the statutory body in relation to the planning and implementation of the WKCD project.

4.34 The competence of the executive director will to a certain extent affect the success of the statutory body in performing its functions. To attract persons of high calibre and with the required ability, experience and commitment to take up the post of the executive director for the statutory body, it is important to devise a remuneration package which is commensurate to the scope and level of responsibilities of the post but not

excessive. Instead of determining the remuneration package arbitrarily, the Subcommittee considers that a fair and objective mechanism should be devised in the first place. In this connection, the Subcommittee has studied the mechanism for determining the remuneration package for the heads of several statutory arts bodies in the UK, the United States, Canada and Australia. Information on the functions of these bodies and matters relating to the appointment of their executive heads are set out in **Appendix 4.2**.

4.35 As seen from Appendix 4.2, there are guidelines for determining and procedure for approving the remuneration package for the heads of the statutory bodies under study. In the case of the Canada Council for the Arts, the remuneration package of its director follows the Salary Administration Policy for the Executive Group as approved by the Treasury Board Secretariat and the Board of Directors of the Canada Council for the Arts. The remuneration classification system for the Executive Group was developed by the Hay Group, independent consultants. The Hay Group conducts job evaluation and provides a systematic measurement of job size, relative to other positions, for comparison purpose. In determining the remuneration package, the Hay Group has adopted the Hay Method which identifies the relative value or weight of positions within an organizational unit. The relationships are based on the relative degree to which any position, competently performed, contributes to what its unit has been created to accomplish.

4.36 A similar approach has been adopted in determining the remuneration package for the head of the Australia Council for the Arts, which follows the Determination of the Principal Executive Office Classification Structure and Terms and Conditions as prescribed by the Remuneration Tribunal. The Remuneration Tribunal is an independent statutory authority that determines, reports on and provides advice about remuneration, including allowances and entitlements for public office holders. Factors like the work value, role and responsibilities of the office, the Australian Public Service remuneration policy and movements in the reference salaries and marketplace will be taken into account in determining the remuneration package.

4.37 Like the overseas examples quoted above, the Subcommittee considers it high time for the Administration to design a mechanism for

determining the remuneration package for senior executives of statutory bodies. How the remuneration package for senior executives of statutory bodies should be determined has been a subject of public concern as public money is at stake. The past experience shows that where the remuneration terms of the executive head of a statutory body are substantially better than those for very senior Government officials, queries would be raised by members of the public about how they were determined. Generally, lack of objectivity and transparency are the main criticisms. In this connection, the Subcommittee is aware that the Government conducted a consultancy study in 2002 on the remuneration of senior executives of 11 statutory and other bodies. This consultancy study only aimed at examining the remuneration of the senior executives of those bodies, many of which are under constant criticism for lack of transparency in this respect. The Subcommittee is more concerned about the lack of a mechanism for determining remuneration which is applicable to all statutory bodies.

4.38 The Subcommittee is of the view that there is an immediate need to set up an independent panel to review comprehensively the remuneration package of the staff of existing statutory bodies and to propose a mechanism for determining their remuneration, in particular the remuneration of executive heads. The review should also include what should be the proper authority for approving and making adjustment to the mechanism. Drawing reference from overseas, the following factors should be considered in developing the mechanism –

- (a) Nature and work of the organization;
- (b) Scope of responsibilities of the post;
- (c) The relative weight of the positions within the organization;
- (d) Availability of the skills required for the post; and
- (e) Comparison with market and civil service salaries respectively.

4.39 Since many statutory bodies are financed by public money, the Subcommittee considers that LegCo must have a say in approving the proposed mechanism. With the establishment of an agreed mechanism, the

remuneration of executive heads of statutory bodies could then be decided and adjusted in an objective and transparent manner. This would go some way to address the public's concern that they are getting value for money. Apart from establishing a mechanism for determining the remuneration of senior executives of statutory bodies, the Administration should also devise a mechanism for disclosure of their remuneration packages in order to facilitate monitoring by LegCo and members of the public. The Subcommittee finds the current practice of simply making an annual report on the remuneration arrangements to the responsible bureaux inadequate. There should be greater transparency in this respect. The Subcommittee calls on the Administration to take the initiative to address the issue and LegCo will be able to follow up on the matter.

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**Extract from Chapter VI of the Phase II Report of the
Subcommittee on West Kowloon Cultural District Development**

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(D) Establish a statutory body immediately to spearhead WKCD

6.27 The Subcommittee wishes to reiterate its recommendation in the Phase I Report on the need to set up an overseeing authority to oversee the development of the WKCD project. The overseeing authority should be established as soon as possible to steer the way forward for WKCD. It is important that this body will have an active role to play in both the planning and implementation stages of WKCD, and not just in the management and maintenance of the hardware facilities after their construction.

6.28 The Subcommittee recognizes that it will take time to prepare the enabling legislation for the setting up of a statutory body. To empower the overseeing authority to function as early as possible, the Administration may consider the establishment of a provisional authority to undertake those tasks which need to be dealt with at this stage, as in the case of PAA.

6.29 Another important aspect which should be further studied when drawing up the details of the statutory body is the degree of autonomy and independence that it should enjoy. The Subcommittee recognizes the need to provide the statutory body with a high degree of autonomy in its operation, but stresses that its budget and financial requirements should be subject to public scrutiny and LegCo's approval. It is important that a mechanism to ensure good corporate governance in the new institution will have been put in place at the time when the statutory body is established.

6.30 For the purpose of good corporate governance, the Subcommittee reiterates its call in paragraphs 4.37 to 4.39 on the need to establish a mechanism to determine the remuneration package for senior executives of statutory bodies as the public is concerned whether services provided by these authorities are value for money. Overseas experience confirms that

such a mechanism is most essential and there should be objective yardsticks in place for determining the remuneration packages of senior executives. A mechanism should also be established for disclosure of their remuneration packages to enhance transparency and facilitate monitoring by LegCo and members of the public.

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Remuneration package of the heads of statutory bodies for the arts in selected places

	Arts Council England	National Endowment for the Arts, United States of America	Canada Council for the Arts	Australia Council for the Arts
Year of establishment	(a) Established by Royal Charter in 1994; and (b) Being granted a Supplemental Charter in 2002.	1965	1957	1975
Corporate status	A national development agency for the arts in England	A federal agency and the official arts organization of the federal government	A national arm's-length agency	A government arts funding and advisory body
Role and functions	(a) Distributing public funds; (b) Commissioning research; (c) Promoting innovation in the arts; and (d) Providing advice and information to artists and arts organizations.	(a) Providing national recognition of artistic excellence and merit; (b) Providing national leadership in arts learning; (c) Providing access to the arts for all; (d) Recognizing, preserving and sharing America's diverse cultural traditions and heritage; (e) Serving as a powerful financial catalyst; (f) Establishing national standards and incentives for the state and local government support for the arts;	Fostering and promoting the study and enjoyment of and the production of works in the arts	(a) Formulating and carrying out policies designed to – (i) promote excellence in the arts; (ii) provide and encourage the provision of opportunities for persons to practise the arts; (iii) promote the appreciation, understanding and enjoyment of the arts; (iv) promote the general application of the arts in the community; (v) foster the expression of a national identity by means of the arts; (vi) uphold and promote the right of persons to freedom in the practice of the arts;

	Arts Council England	National Endowment for the Arts, United States of America	Canada Council for the Arts	Australia Council for the Arts
Role and functions (cont'd)		<p>(g) Bringing together representatives of the arts and the public and private sectors at the national, regional and community levels;</p> <p>(h) Providing national leadership and encouragement for communication, dialogue, research and new thinking on issues important to the future of the arts;</p> <p>(i) Providing national stewardship and nurturing of distinct artistic fields; and</p> <p>(j) Serving as a national symbol and voice for American culture at home and abroad.</p>		<p>(vii) promote the knowledge and appreciation of Australian arts by persons in other countries;</p> <p>(viii) promote incentives for and recognition of achievement in the practice of the arts; and</p> <p>(ix) encourage the support of the arts by the states, local governing bodies and other persons and organizations;</p> <p>(b) Advising the Commonwealth government on matters relating to the promotion of the arts as well as to the performance of its functions; and</p> <p>(c) Doing anything incidental or conducive to the performance of any of the foregoing functions.</p>
Head of the statutory body	Chief Executive	Chairman	Director	General Manager
Relevant legislation / directives / guidelines relating to the appointment and remuneration of the head of the statutory body	<p>(a) <i>Code of Practice for Council Members of Arts Council England</i>;</p> <p>(b) <i>Guidance on Codes of Practice for Board Members of Public Bodies</i> issued by the Commissioner for Public Appointments; and</p> <p>(c) <i>Non Departmental Public Bodies – A Guide for Departments</i> issued by the Cabinet Office.</p>	<p>(a) National Foundation on the Arts and Humanities Act of 1965;</p> <p>(b) United States. (2005) 2 U.S.C.; and</p> <p>(c) United States. (2005) 5 U.S.C..</p>	<p>(a) Canada Council for the Arts Act;</p> <p>(b) Public Service Superannuation Act; and</p> <p>(c) Salary Administration Policy for the Executive Group (the EX Group).</p>	<p>(a) Australia Council Act 1975; and</p> <p>(b) Remuneration Tribunal Act 1973.</p>

	Arts Council England	National Endowment for the Arts, United States of America	Canada Council for the Arts	Australia Council for the Arts
Approving authority for the appointment of the head of the statutory body	Appointed by the Council ¹ and approved by the Secretary of State for Culture, Media and Sport	President	Governor in Council	Minister for the Arts and Sport
Period of appointment of the head of the statutory body	Information is not available as for the period of appointment. The current Chief Executive was appointed in 1998 and his contract will expire in 2008.	(a) Four years; and (b) Eligible for re-appointment.	Three to five years	(a) Not exceeding seven years; and (b) Eligible for re-appointment.
Authority for approving the remuneration package of the head of the statutory body	Approved by the Department for Culture, Media and Sport in consultation with the Treasury	The President recommends the remuneration package to Congress. To approve the recommendation, Congress will enact a law.	The remuneration package of the Canada Council for the Arts follows the EX Group salary scales as approved by the Treasury Board Secretariat ² and the Board of Directors of the Canada Council for the Arts.	The remuneration package of the Australia Council for the Arts follows the <i>Determination of the Principal Executive Office Classification Structure and Terms and Conditions</i> as prescribed by the Remuneration Tribunal ³ .

¹ The Council is the governing body of the Arts Council England. It comprises up to 15 people, including the Chairman and nine members who also chair the respective regional arts councils.

² The Treasury Board Secretariat makes recommendations and provides advice to the Treasury Board on policies, directives, regulations and programme expenditure proposals with respect to the management of the government's resources.

³ The Remuneration Tribunal is an independent statutory authority that determines, reports on and provides advice about remuneration, including allowances and entitlements for the following:

- (a) Federal Parliamentarians, including Ministers and Parliamentary office holders;
- (b) Judicial and non-judicial offices of federal courts and tribunals;
- (c) Full-time and part-time holders of various public offices; and
- (d) Principal Executive Offices.

	Arts Council England	National Endowment for the Arts, United States of America	Canada Council for the Arts	Australia Council for the Arts
Major components of the remuneration package	(a) Basic salary; (b) Geographical allowances; (c) Performance-related bonuses; (d) Any employer's contributions paid in respect of the Chief Executive under the pension scheme; (e) The estimated monetary value of any other benefits receivable by the Chief Executive other than in cash; and (f) Any agreed sum on taking up the appointment.	(a) Base salary; and (b) Other related pay entitlements.	(a) A base salary within a salary structure that has a salary range for each level; and (b) Performance awards (in-range salary movement and at-risk lump sum payments) awarded based on criteria established under the Performance Management Program for the EX Group.	(a) Total remuneration ⁴ ; (b) Superannuation salary ⁵ ; and (c) Performance pay ⁶ .

⁴ Total remuneration means the salary, allowances, compulsory employer superannuation contributions and any other benefits provided mainly or solely for private use, calculated at their total cost to the government. It does not include performance pay, official travel allowances or other items as advised by the Remuneration Tribunal.

⁵ Superannuation salary means an amount of salary which is determined for the purposes of superannuation laws and for calculating separation benefits, and which is no more than 70% of total remuneration.

⁶ Performance pay means an amount of at-risk performance-based pay of no more than 15% of total remuneration.

	Arts Council England	National Endowment for the Arts, United States of America	Canada Council for the Arts	Australia Council for the Arts
Amount of remuneration	In 2004, the remuneration of the Chief Executive of the Arts Council England was £152,322 (HK\$2,173,635) ⁷ .	The pay of the Chairman of the National Endowment for the Arts falls in Level III of the Executive Schedule ⁸ , the basic pay schedule for senior federal positions, and amounts to US\$149,200 (HK\$1,157,195) ⁹ in 2005.	As at 1 April 2005, the salary ranges for the EX Group were as follows – (a) EX-01 from C\$91,800 to C\$108,000 (HK\$604,962 to HK\$711,720) ¹⁰ ; (b) EX-02 from C\$102,800 to C\$121,000 (HK\$677,452 to HK\$797,390); (c) EX-03 from C\$115,100 to C\$135,500 (HK\$758,509 to HK\$892,945); (d) EX-04 from C\$132,200 to C\$155,600 (HK\$871,198 to HK\$1,025,404); and (e) E X-05 from C\$148,100 to C\$174,300 (HK\$975,979 to HK\$1,148,637).	As at 1 July 2005, the range of the total remuneration for the General Manager of the Australia Council for the Arts was from A\$190,000 to A\$332,400 (HK\$1,111,500 to HK\$1,944,540) ¹¹ .

⁷ The average exchange rate of Pound Sterling to Hong Kong Dollar for 2004 was £1=HK\$14.27.

⁸ The Executive Schedule is divided into five pay levels.

⁹ The average exchange rate of US Dollar to Hong Kong Dollar for October 2005 was US1=HK\$7.756.

¹⁰ The average exchange rate of Canadian Dollar to Hong Kong Dollar for October 2005 was CAD1=HK\$6.59.

¹¹ The average exchange rate of Australian Dollar to Hong Kong Dollar for October 2005 was AUD1=HK\$5.85.

	Arts Council England	National Endowment for the Arts, United States of America	Canada Council for the Arts	Australia Council for the Arts
Factors for determining the remuneration package	According to the <i>Non Departmental Public Bodies – A Guide for Departments</i> , the pay system should be judged against the following criteria: (a) Value for money; (b) Flexibility; (c) Financial control; and (d) Performance.	(a) Recommendations made by the Citizens' Commission on Public Service and Compensation ¹² , on the basis of the following considerations – (i) recruitment and retention; and (ii) public policy issues involved in maintaining appropriate ethical standards; (b) The prevailing market value of the services rendered in the offices and positions involved; (c) The overall economic condition of the country; and (d) The fiscal condition of the federal government.	The EX classification system follows the structure and framework developed for the Treasury Board by the Hay Group. All senior management and senior staff job profiles under the EX group are evaluated externally by either the Hay Group ¹³ or an independent consultant. The Hay Method identifies the relative value (or weight) of positions within an organizational unit. The relationships are based on the relative degree to which any position, competently performed, contributes to what its unit has been created to accomplish.	(a) The government's workplace relations policy; (b) The work value, role and responsibilities of the office or appointment; (c) The Australian public service remuneration policy that improvements in pay and conditions be linked to productivity gain; (d) The ability of an employing body to recruit and retain persons with the necessary qualities and skills; and (e) Other relevant factors such as movements in the reference salaries and marketplace identified by the Remuneration Tribunal.

¹² The Citizens' Commission on Public Service and Compensation is a statutory body which reviews the rates of pay of the following:

- (a) The Vice President of the United States, Senators, Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the majority and minority leaders of the Senate and the House of Representatives;
- (b) Offices and positions in the legislative branch under the provisions of the Federal Legislative Salary Act of 1964;
- (c) Justices, judges, and other personnel in the judicial branch under the provisions of the Federal Judicial Salary Act of 1964 except bankruptcy judges, but including the judges of the United States Court of Federal Claims;
- (d) Offices and positions under the Executive Schedule in subchapter II of United States. (2005) 5 U.S.C. 53; and
- (e) The Governors of the Board of Governors of the United States Postal Service appointed under United States. (2005) 39 U.S.C. 202.

¹³ The Hay Group conducts job evaluation and provides a systematic measurement of job size, relative to other positions, so as to enable salary comparisons to be made.