

THE GOVERNMENT MINUTE

in response to the

**REPORT NO. 48 OF
THE PUBLIC ACCOUNTS COMMITTEE**

dated July 2007

17 October 2007

**THE GOVERNMENT MINUTE IN RESPONSE TO THE
PUBLIC ACCOUNTS COMMITTEE REPORT NO. 48
DATED JULY 2007**

**REPORT ON THE RESULTS OF VALUE FOR
MONEY AUDITS (Report No. 47)**

Chapter 1 – Administration of short term tenancies

The Director of Audit has conducted a review of the Lands Department (Lands D)'s administration of short term tenancies (STTs), with its focus on administration of rent arrears, monitoring of tenants' performance and enforcement of tenancy conditions. Lands D has accepted Audit's recommendations, and has proactively taken steps to implement them.

Administration of rent arrears

2. Lands D agrees with the Audit that Standing Accounting Instruction (SAI) 1020 should be fully complied with when preparing annual returns of arrears of revenue. In response to Audit's specific recommendations in this area, Lands D conducted a review of the rent arrears in the 2005-06 returns of revenue to ensure compliance with this SAI. Lands D has also updated the relevant departmental accounting circulars and instructions to require all District Lands Officers (DLOs) to report all debts and charges falling due, even if a demand note has not been raised, strictly in accordance with SAI 1020. Furthermore, Lands D has revised its departmental instructions to require timely action to write off rent arrears.

3. We have taken note of the Public Accounts Committee (PAC)'s concern over Lands D's difficulties in recovering the rent arrears once an STT tenant has commenced legal proceedings against the Government. The Government's legal position as a landlord under STTs is similar to that of any private landlord, and therefore subject to the usual restraints imposed by court procedures on a private landlord. However, the Government takes practical actions to protect its interest. During the course of the legal proceedings, the Government may seek an order under Order 29 of the Rules of the High Court Ordinance (Cap. 4) for payment of rent by the tenant. Clear departmental instructions have also been devised to deal with the situation whereby an STT tenant puts up a settlement proposal in the course of legal proceedings. Lands D staff have been clearly advised on whether, and if so when and how, to make a counter offer to the settlement proposal.

4. As a prudent precautionary measure, Lands D has taken on board Audit's recommendation to vet the financial capability of STT tenants. Only those tenants with proven financial capability will be awarded with new STTs.

Monitoring of tenants' performance

5. For STT tenants with records of tenancy breaches, their performance is being monitored. DLOs are required to report STT tenants with a history of tenancy breaches to the Land Administration Meeting (LAM) chaired by a Deputy Director of Lands. LAM considers, and advises DLOs, whether new STTs would be awarded to such tenants on a case-by-case basis. Effective implementation of this measure requires timely dissemination of LAM decisions to DLOs. Since January 2006, LAM decisions have been disseminated to DLOs immediately after ratification, and this is done via circulation of memoranda as well as through Lands D's intranet.

6. As there have been many problems and complaints relating to car-park STT tenants, a reporting mechanism has been introduced to monitor regularly the performance of such tenants. Lands D agrees with the Audit that there is room for improvement in implementing this mechanism. Particular emphasis has been put on measures to ensure timely submission of performance report and standardisation of the reporting format.

Enforcement of tenancy conditions

7. Lands D has reviewed the existing departmental guidelines on monitoring tenants' performance in complying with the tenancy conditions, and on enforcement actions taken by Lands D staff. The Department has drawn up clear guidelines for DLOs stipulating the types and timing of enforcement actions DLOs should take against tenants in breach of tenancy conditions. In response to concerns expressed over a case whereby DLO staff had refunded the rental deposit to a tenant before deducting outstanding debts due to the Government, a clear reminder on the proper refund procedure has been sent to all staff concerned. Lands D has taken on board PAC's comment that some inspections could be more effective if they are carried out outside office hours. DLO staff are now required to conduct site inspections outside office hours if warranted.

Survey of all STTs

8. Lands D has responded positively to Audit's recommendation to inspect all STTs in the territory to find out unauthorized use of the sites. Lands D completed this extensive task in January 2007. A total of 4 472 STTs all over Hong Kong were covered in this comprehensive survey exercise. Of these, 2 034 STTs (almost 45%) were detected with breaches. Due to this large number of detected breaches, a pragmatic incremental action plan has been devised. Priority is accorded to those major

breaches, followed by actions against the minor ones. DLOs submit their work plans on how to tackle breaches found in their respective STTs and then submit quarterly implementation reports. In view of the competing demands on its limited staff resources, Lands D is in the process of exploring the option of outsourcing part of the patrol and tenancy enforcement work, and is consulting the Department of Justice (D of J) on this exercise.

Way forward

9. PAC has expressed its wish to be kept informed of any measures taken by the Director of Lands (D of L) to ensure that Lands D staff will diligently comply with all the guidelines and instructions on monitoring tenants' performance in fulfilling tenancy conditions and on the enforcement of tenancy conditions, including those on site inspection. D of L would wish to report that a Management Services Team has been set up to perform an internal auditing function. This team is tasked to do some random checks so as to identify issues of non-compliances within Lands D. D of L has also convened an internal committee, comprising the different units involving in STT administration, to monitor and advise on the implementation of the Audit recommendations and other related issues.

REPORT ON THE RESULTS OF VALUE FOR MONEY AUDITS (Report No. 48)

Chapter 2 – Administration of Hong Kong Applied Science and Technology Research Institute Company Limited

10. The Administration and the Hong Kong Applied Science and Technology Research Institute Company Limited (ASTRI) agree that there is room for improvement on the administration of ASTRI. ASTRI has been taking measures to address the recommendations made by the Audit Commission.

Review on the role and responsibility of government officials appointed to sit on the governing bodies and committees of statutory bodies or publicly-funded organisations

11. In response to PAC's recommendation, the Administration is conducting a limited review on the role of government officials appointed to serve as directors in companies and statutory corporations. We will inform PAC of the progress.

Further progress made by ASTRI in rationalising its administration structure

12. ASTRI has streamlined its administration structure, as reported to PAC on 18 May and 15 June 2007. Since then, ASTRI management has further reviewed as to whether there is scope and if so how to further streamline the new administration structure. As a result, part of the programming work in the Information Technology Department has been outsourced and one Associate post in that Department can thus be deleted. Through reshuffling of duties, one Senior Associate post in the Human Resources (HR) Department is downgraded and another Senior Associate post in the Corporation Communications Department is redeployed to strengthen the establishment of the Program Management Department. The management will continue to examine the possibility of further streamlining of the organisation with the aim of further enhancing administrative efficiency. These measures have been endorsed by the Board. We will inform PAC of the results of future progress.

Progress on the implementation of a computerised and integrated HR and project management information system

13. ASTRI has evaluated various options of computerised project management systems to facilitate effective project management, and concluded that any such system and respective modules need to be an integral part of a more comprehensive computerised enterprise information system for cost efficiency and avoidance of using disparate systems. ASTRI has discussed with a number of local and

international system vendors for the evaluation and demonstration of the Enterprise Resource Planning solution to assist recording and budgeting staff time in a timely and accurate manner, and is evaluating the cost effectiveness of implementing such a system, with a view to deciding the way forward within this financial year. Meanwhile, ASTRI is enhancing the existing spreadsheet programme to handle the charging of project staff cost and the research and development (R&D) teams have started to fill in staff time sheets for the record since August 2007. We will inform PAC of the progress.

Progress made in implementing the outstanding Audit recommendations

Corporate governance

Documentation of committee proceedings

14. Since March 2007, ASTRI has put in place the practice of reporting to the Board/Committees the comments and decisions of Directors at the earliest meetings following the circulation of papers, and recording the information in the minutes of the meeting. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Remuneration and recruitment

Performance-based variable payments

15. ASTRI has established a set of guidelines for distributing the performance-based variable payments for the 2006-07 exercise conducted in April 2007. The guidelines stipulate the range of the percentage of variable payments to be awarded to staff according to the rating of their performance appraisal for the preceding year. Any variance from the set guideline requires the approval of the Chief Executive Officer (CEO) and the justifications for the deviations, if approved, have to be documented.

16. Furthermore, ASTRI has engaged an HR consultant to review the overall remuneration policy of ASTRI, including the mechanism on distribution of variable payment. The study has been completed. The Board has endorsed the principles recommended by the consultant. The management will seek prior endorsement from the Finance and Administration Committee on the proposed distribution system each year. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Annual salary adjustments

17. HR consultancy referred to in paragraph 16 above covers, inter alia, the salary adjustment mechanism. Following the principles recommended by the consultant and approved by the Board, ASTRI will seek the Board's approval for the annual salary adjustment exercise. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Review of senior staff's remuneration package

18. HR consultancy referred to in paragraph 16 above also covers the remuneration packages for all levels of staff, including CEO and other senior staff, having regard to market practices.

19. Making reference to the practices of some statutory bodies and listed companies, ASTRI has drawn up the format for disclosing publicly the remuneration packages of its senior staff (i.e. the top three-tier executives). The information has been uploaded to ASTRI's website as endorsed by the Board.

20. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Project management

Project planning

21. The risk management process has been strengthened. Project teams are now required to include in writing a risk analysis in the project proposal application forms as well as project progress reports. These analyses include, among other things, identification of the top risk factors and contingency plans.

22. Measures for better project cost estimation have also been put in place. Actual amount of annual salaries is used in budgeting manpower cost wherever possible. For positions that have not been filled yet, ASTRI uses the average annual salaries for the relevant grade level. R&D teams have been reminded to make manpower estimations as accurately as possible.

23. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Project monitoring

24. Innovation and Technology Commission (ITC) has reminded ASTRI to take measures to improve the efficiency in preparing annual and final audited accounts without compromising the quality of the submissions.

25. ASTRI has adopted a series of measures to improve the timeliness of their submission of audited reports to ITC, including requiring the auditor to carry out the project audit once the project account is closed; seeking approval of draft audited report by the Audit Committee and the Board through paper circulation instead of quarterly meetings; and signing of the audited project statement by the management under the delegated authority of the Board. ITC will continue to monitor the timeliness of submitting audited accounts and will, if necessary, discuss with ASTRI for further improvement measures.

26. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Project evaluation

27. ITC has already put in place a reminder system for monitoring the submission of progress and final reports of projects funded by the Innovation and Technology Fund (ITF). ITC will continue to work with ASTRI to ensure that the reporting requirements are complied with in a timely manner.

28. ITC has revised the report template of ITF projects to include an assessment on the usefulness and benefits of the project deliverables to the industry. ASTRI has adopted the new reporting format for all final reports prepared since early August 2007.

29. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Industry contribution

30. ITC has specified in ITF funding guidelines applicable to ASTRI that documentary proof of the value of in-kind contribution should be provided to ITC and where documentary proof is not available, reasons should be given and properly documented. ITC has also specified that payment not honoured by customers should not be counted towards meeting the contribution requirement and that in such cases ASTRI would need to identify replacement income to make up the shortfall before completion of the project. The revised guidelines were issued to ASTRI in mid-May 2007.

31. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Project cost control

Control of project costs

32. Pending the installation of an integrated HR and project management information system as reported in paragraph 13 above, ASTRI has since August 2007 implemented a time recording system for all R&D staff and put in place arrangements to record all project and non-project related activities of R&D staff. An accounting policy for variable payment has also been developed and implemented. For those projects that Audit has identified anomalies in the charging of some project expenditure, ASTRI has already made necessary adjustments for the charging of project costs to the correct project accounts.

33. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Administrative issues

Non-project-related overseas duty visits

34. ASTRI will follow strictly the established Corporate Governance guidelines on non-project-related overseas duty visits. The Board has reaffirmed that CEO may, subject to the availability of funds, only give exceptional approval to upgrade air passage from economy to business class if there are justifiable operational grounds under unavoidable circumstances. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Procurement of air tickets

35. ASTRI has since July 2006 put in place procedures to ensure that at least two quotations are obtained for purchasing air tickets. ASTRI is conducting a tender exercise with a view to appointing a designated travel agent and achieving bulk purchase discount.

36. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Company vehicles

37. After reviewing the utilisation rate of all the company vehicles during the period of January to June 2007, ASTRI has sold one surplus vehicle.

38. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Low interest income

39. ASTRI has looked into the various options to improve the return on funds not immediately required. Taking into account the investment risks and the need to retain the ability to deploy funds in case of emergency, ASTRI will, when possible, put some of its funds in time deposit accounts to generate higher interest income.

40. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Review of procurement guidelines

41. On PAC's concerns as to whether all the quotations in ASTRI's procurement processes should be obtained in writing instead of allowing verbal quotations, ASTRI has since January 2006 adopted the procedures that all quotations for purchase with a value of HK\$50,000 or above must be obtained in writing. Therefore, no further follow-up action in this regard is necessary. We recommend deleting this part from the next progress report.

Cost and achievement of ASTRI

Cost of ASTRI's operations

42. As undertaken in the Audit Report and during the public hearing by PAC, ASTRI is now looking into measures to reduce the proportion of administration cost to total cost from the current 45% to 25% within the next three years and will seek the Board's endorsement of the suggested measures to achieve this target. We will inform PAC of further development in this regard.

Evaluation of ASTRI's performance

43. Having regard to the performance indicators adopted by ASTRI so far and the performance indicators adopted by similar technology research institutes in Asia, ASTRI has drawn up a set of further performance yardsticks for measuring, evaluating and reporting ASTRI's achievements. The set of new performance yardsticks have been agreed by ASTRI Board and will be adopted for publication in the Controlling Officer's Report (COR) and ASTRI's Annual Report.

44. At the meeting of the Legislative Council Commerce and Industry Panel held on 21 November 2006 and 17 July 2007, ITC reported, as part of the regular reports on the five R&D Centres, the performance of ASTRI including R&D projects undertaken, number of technology transfer and patents filed, collaboration with universities, Mainland partnership as well as promotional and networking activities. The Administration will continue to report to the Panel the performance of ASTRI in the context of reporting the performance of the five R&D Centres.

45. As the Administration has taken follow up action to address Audit's recommendations, we recommend deleting this part from the next progress report.

Chapter 3 – Management of government fresh food wholesale markets

46. The Administration accepts the findings and recommendations of PAC and the Audit Commission, and is actively following up on the recommendations.

Letting of Market Facilities

47. We have critically reviewed the utilisation of market facilities in different government wholesale markets, and made further efforts to improve it. As at 31 July 2007, we have rented out 12 out of 99 stalls previously vacated.

Vacant Egg and Fruit Stalls at Cheung Sha Wan Wholesale Food Market (CSWWFM) and Western Wholesale Food Market (WWFM)

48. In the past few years, many fresh food suppliers have decided to supply to supermarkets and retailers direct^{Note}. The demand for stalls at government wholesale markets has been declining. In view of this, we have taken steps to extend the stalls' possible uses to include wholesaling of canned food, kitchen utensils or fruit associated products at CSWWFM and WWFM. Under the Supplementary Agreement of the Head Lease for Western Wholesale Food Market effective from May 2003, the Director of Agriculture, Fisheries and Conservation approved such extension of uses for WWFM in June 2007. Advertisements for leasing such market facilities at WWFM have been put up. We are also making arrangements for modifying the head lease for CSWWFM for similar extensions. Thereafter, we will advertise the extended uses for leasing. The Agriculture, Fisheries and Conservation Department (AFCD) will review the utilisation situation of market stalls from time to time, and make appropriate arrangements to ensure the proper usage of stalls.

Four Unused Market Piers at WWFM

49. The Government Property Agency (GPA) has invited expressions of interest from all government departments in the four unused piers at WWFM but has received no bids. As such, GPA has started assessing the commercial viability of the piers with a view to disposing of them through commercial leasing. The commercialisation analysis is expected to be completed by the fourth quarter of 2007. Pending the findings of the analysis, GPA will proceed to tender out the piers.

^{Note} According to AFCD's estimation, about 18% of fresh food supplied to Hong Kong is supplied by fresh food suppliers to supermarkets and retailers direct. This represents a 60% increase from the condition of about a decade ago.

Poultry Market at WWFM

50. In response to GPA's invitation for interest, two government departments have indicated interest to use the vacant poultry market at WWFM. In consultation with GPA, AFCD will follow up and arrange for modification of the head lease where necessary.

Letting of market facilities

51. We have revised the "General Guidelines for Application for Renting Market Stalls and Monthly Vehicle Parking Spaces at AFCD Markets" and clearly stated the circumstances under which the principle of "first-come-first-served" is applied. We have also promulgated a new set of "Operational Guidelines/Procedures for Handling 'First-Come-First-Served' Cases".

52. AFCD has explored alternative means of publicising availability of vacant units in the three wholesale markets. Vacancies of the market units are now advertised on AFCD's website and in all government wholesale markets, and publicised quarterly through wholesale trade organisations and major local newspapers.

Collection of Rentals

53. We are closely monitoring the payment of rentals in arrears that are permitted to be settled by installment. The "Guideline on Recovery and Writing off of Overdue Rents for Government Wholesale Food Markets" (Guideline) has been revised requiring AFCD staff to follow up on these cases and liaise closely with the D of J. All outstanding cases are reviewed quarterly.

54. We have analysed the rentals that have been in arrears for more than two years and assessed their recoverability. Out of the \$6.4 million outstanding rental payments (involving 84 cases) recorded at the time of study of the Audit Commission, 39 cases have either been fully/partially repaid, or are being arranged to be paid by installment. The other 22 cases have been or are being written off. As at 31 July 2007, the outstanding rental has been reduced to \$4.6 million. D of J is taking action on the remaining cases with a view to recovering the outstanding amount.

55. We have devised procedural guidelines for conducting regular reviews of long outstanding rentals (including regular follow-up of the cases referred to D of J) and taking write-off action. The revised Guideline now requires AFCD staff to proceed with write off action as and when there is no reasonable hope for recovering the overdue rent.

56. We have concluded that it is feasible to use the Treasury's General Demand Note System to enhance AFCD wholesale market rental collection procedures. We consulted the wholesalers in August 2007, with a view to implementing the system in the fourth quarter of 2007.

57. We have worked out a proposed surcharge on overdue rentals. We plan to consult wholesalers with a view to implementing the surcharge on 1 April 2008 when new tenancy agreements commence.

Managing Daily Market Operation

58. We have revised the Inspection Manual, making it clear that it is applicable to all three wholesale markets. Apart from reminding market staff to conduct inspections as frequently as required by the Manual, we have also required the Officer-in-charge of each shift to scrutinise and endorse the inspection checklist to ensure that the required tasks are completed. We have also improved the Manual by including suitable provisions governing compliance checking and providing guidelines to field staff for making decisions to deal with incidents of non-compliance.

59. We have implemented an improved system to keep proper and complete records on market operations. The Food and Environmental Hygiene Department has agreed to provide information on offences committed in and testing results of freshwater fish samples taken from CSWWFM and WWFM. We have also requested the Police to provide information on offences committed in the markets. On the basis of the information received, AFCD will follow up by taking appropriate enforcement action within the terms of the tenancy agreement.

60. We have reviewed the market entry registration procedures at CSWWFM and WWFM to identify areas for improvement. We have revised the entry registration form and the associated implementation guidelines to ensure that relevant information, such as purpose of entry, is registered. A post-implementation review to assess the cost-effectiveness of the entry registration system is planned for mid-2008, after the system is in operation for two years. We are also exploring the feasibility and cost-effectiveness of automating the registration procedures. The Electrical and Mechanical Services Department (EMSD) has proposed installing turnstiles with card access control system for pedestrians, and portable card readers for vehicular ingress. We are carrying out surveys to ascertain feasibility of the proposed system and will assess the cost-benefits once EMSD has finalised their technical proposal.

Outsourcing Operation of the North District Temporary Wholesale Market for Agricultural Products (North District Market)

61. The new contractor has assumed the responsibilities of managing the North District Market from 1 April 2007. We have requested the contractor to provide

the required operating/business information as stated in the contract for our reference. We shall initiate the next tender exercise at least a year before the current contract expires. Also, we shall consider setting a reasonable level of minimum premium in the tender documents, with reference to previous contracts and the contractor's business activities.

Reprovisioning of Outdated Wholesale Markets

62. The Cheung Sha Wan Wholesale Market Phase 2 (CSW Phase 2) project is closely related to the reprovisioning of the Yau Ma Tei Fruit Market (YMTFM). In this connection, the Government has embarked on preliminary discussion with fruit traders at YMTFM and other interested parties regarding the Government's initial thinking of relocating YMTFM to part of CSW Phase 2 site.

63. So far, we understand fruit traders' concerns which include the location, size and design of the new market and costs of relocation. Other interested parties, including Yau Tsim Mong District Councillors, have also commented on the need to have in place a concrete timetable for the project.

64. PAC's request for a definite timetable for the relocation of YMTFM is noted. In view of the sentiments of fruit traders, the Government will continue to liaise with them with a view to working out a package of measures under the prevailing policy to address their concerns on the proposed new market in Cheung Sha Wan and to encourage voluntary relocation of business. A comprehensive plan on how to take forward the relocation exercise will then be drawn up. A timetable will also be worked out. Relevant parties will continue to be kept abreast of the developments.

Other Areas for Improvement

65. We are reviewing the performance indicators for reporting in COR in respect of wholesale markets. We shall introduce new indicators in the coming COR.

66. We have actively followed up on the idea of letting out market roofs and external walls for advertising. We have prepared a draft proposal and sought the views of the relevant departments. In view of the possible visual impact along the waterfront, we will consult the Harbour-front Enhancement Committee and relevant District Councils. Modification of the head lease is also required to allow advertising on the market premises. We will follow up accordingly.
