

**政府總部
民政事務局**

香港灣仔
告士打道五號
稅務大樓
四十一樓



GOVERNMENT SECRETARIAT

HOME AFFAIRS BUREAU
41/F, REVENUE TOWER
5 GLOUCESTER ROAD
WAN CHAI
HONG KONG

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立法會
政府帳目委員會秘書
韓律科女士

韓女士：

**審計署署長的
衡工量值式審計結果報告書（第五十六號報告書）**

香港 2009 東亞運動會（第 5 章）

你曾於二零一一年五月二十五日來信要求當局提供更多有關傳承項目資助款項來源的資料。現把有關資料臚列如下：

- (a) 二零一零年一月二十二日收到來自贊助人 B 的 1,000 萬元款項是用作支持整個東亞運，並無指定用於任何東亞運特定的活動或附帶任何特定的條件。
- (b)及(c) 贊助人 B 曾向東亞運公司捐贈兩大筆款項。首筆約 1,300 萬元的款項於二零零九年年初承諾捐出，以供舉辦特定的東亞運活動。至於第二筆為數 1,000 萬元的款項，則於二零零九年十一月承諾捐出，但無指定用於特定的東亞運活動。第二筆贊助款項既非首筆捐款的一部分，亦與首筆捐款也無任何關連。該筆款項最終於二零一零年一月二十二日收到。贊助人在活動舉行前承諾捐款而在活動完結後才付款，並不罕見。

(d) 有關在二零一零年五月至六月期間關乎傳承項目的文書往來:康樂及文化事務署(康文署)於二零一零年五月諮詢財經事務及庫務局,建議准許東亞運公司把錄得的未撥用餘款用於兩個傳承項目。應財經事務及庫務局的口頭查詢,康文署以電郵回覆表示東亞運公司在最後一刻收到一些大額捐款,當中包括由贊助人 A 捐出用以加強開幕典禮節目內容的 1,000 萬元款項。這筆捐款是列舉作為公司在最後一刻收到大額捐款的例證,以支持康文署有關未撥用餘款中有很大部分是從這些贊助而來的論據。康文署沒有向財經事務及庫務局詳細列出東亞運公司在最後一刻收到的所有贊助。據我們了解,當財經事務及庫務局在答覆康文署時提及贊助人 A,純粹以此作為例子說明有關的一般原則,即“如所有(或部分)未撥用的 2,000 萬元餘款來自東亞運公司獲得的社會人士/商界贊助,則視乎贊助的條款,政府可被質疑未必可以優先取得該筆(或部分)餘款”(見本局上次覆函英文本附件 D 附錄 V 第 4 段)。我們在發出這份覆函前,已與財經事務及庫務局確認上述見解。康文署與財經事務及庫務局沒有就傳承項目資助款項的實際來源進行商討。

至於東亞運公司的立場:公司最初認為該筆未撥用餘款是有關各方努力開源節流的成果,因此該筆為數 2,150 萬元的未撥用餘款不能視作來自任何單一贊助款項。不過,考慮到當局的意見,東亞運公司接納使用該筆未撥用餘款的一般原則,並覓得符合政府所訂推行傳承項目原則的一筆為數 1,000 萬元贊助。

東亞運公司前行政總裁在二零一一年二月就審計報告擬稿的相關部分提出意見時,是說明東亞運公司最初有關未撥用餘款不能視作來自任何單一贊助人的立場。該前行政總裁知悉政府就未撥用餘款用於傳承項目的意見,在推行有關項目時已充分顧及政府訂定的一般原則。

我們與審計署就審計報告擬稿有關部分的討論,主要着眼於准許東亞運公司把部分未撥用餘款用於兩項傳承項目的理據,以及這項用途是否為三邊協議所允許。東亞運公司前行政總裁在二零一一年二月中回覆審計署時指出,來自贊助人 A 的捐款已用於加強東亞運開幕典禮的節目內容。康文署或該前行政總裁沒有被要求進一步解釋傳承項目資助款項的實際來源。

東亞運在審計署進行衡工量值研究的一年多前舉行，而負責執行的東亞運公司已停止運作，沒有工作人員留任。政府並非直接負責舉辦東亞運，因此要在極短時間內提供所需的詳細資料和數字，並要追查東亞運公司所作若干決定的理據並不容易。在這情況下，康文署給予的意見或許未能完全涵蓋審計署所提出的每一項問題的各個方面。

現應要求把康文署於二零一零年五月五日向民政事務局局長提交的錄事全文列載於附件(只有英文版)，以供參考。

民政事務局局長

(莫君虞



代行)

副本送：康樂及文化事務署署長(傳真號碼：2606 1824)

財經事務及庫務局局長(傳真號碼：2147 5239)

審計署署長(傳真號碼：2583 9063)

二零一一年五月三十一日

Full Text of the LCSD's minute submitted to SHA on 5 May 2010

M.1

**SHA
via PSHA
DS(HA)2**

**Disposal of Surplus Fund and Properties from
The Hong Kong 2009 East Asian Games (EAG)**

PROBLEM

The EAG Company will have a surplus of \$20M. We need to consider how to dispose of the surplus in a proper and meaningful manner.

RECOMMENDATION

2. It is recommended that the surplus and properties of the EAG Company be disposed of by:

- (a) providing \$1M for the EAG legacy project at EAG-related venues;
- (b) donating \$19M to the Hong Kong Athletes Career and Education Programme (HKACEP) and/or the Hong Kong Athlete Fund (HKAF) for the long-term benefits of Hong Kong athletes and the creation of a EAG legacy; and
- (c) transferring the properties (office furniture and equipment) to LCSD.

JUSTIFICATION

The Surplus

3. The EAG has concluded successfully last December and the EAG Company (the Company) has been finalising its account. It is anticipated that there will be a surplus of about HK\$20M if all the money receivable is duly received. The latest draft income and expenditure statement of the Company as at 31 March 2010 is at Annex A. Furthermore, the Company has procured office furniture and equipment (Annex B) which will be left behind upon its winding up.

***委員會秘書附註：本文件只備英文本。**

4. Although the Company had reviewed and revised the budget on a continuous basis before and throughout the Games, a number of factors, which were not fully within the Company's control, have attributed to the higher than expected surplus. These include:

- (a) **Satisfactory ticket sales** – over 70% of the tickets were sold (80% of the education tickets purchased by [*sponsor's name has been deleted*] were included) and this had resulted in \$3M additional income (as compared to the original estimate) for the Company;
- (b) **Last-minute sponsorship** - sponsorship in kind including courier services for doping samples from Hong Kong to Beijing and supplies for sports equipment for various competitions were finalised at a very late stage, thus contributing to savings of around \$3M.
- (c) **Lower turnout of participants** – the actual number of participants (totalling 3,200 athletes, team officials and VIPs) in EAG, which was finalised and available only in late November 2009, was lower than the Company's original estimate (3,900). As a result, the expenditure on catering, accommodation, VIP hospitality, competition events, etc has reduced by around \$9M; and
- (d) **Other cost savings** – the Company had succeeded in negotiating with some of its contractors/service providers to lower the contract prices, notably in transportation and production costs of the opening ceremony, which has resulted in \$4M savings.

5. The relatively large surplus of EAG is a combined result of the concerted efforts of all to contain costs, the smaller number of participants as well as the better than expected ticket sales and sponsorship. While some may comment that the Company had been too prudent in planning its budget and hence resulted in certain inadequacies, we believe that the surplus should be defensible, especially if we are able to put it into good and meaningful use.

(a) Disposal of the Surplus

6. We have considered various ways to dispose of the surplus having regard to the Tripartite Agreement for 2009 EAG signed among the Government, the EAG Company and the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC), as well as the Memorandum of Articles and Association (MAA) of the Company. The justifications for our recommendations are as follows:

(i) EAG legacy projects

7. To commemorate Hong Kong hosting the 5th EAG, we propose to install commemorative plaques at 19 EAG-related venues owned by LCSD, including 16 competition venues and three other venues, namely the Kowloon Park Piazza, the Olympic Square in Hong Kong Park and the Hong Kong Cultural Centre Piazza where the 100-day countdown cum torch relay, the flag raising ceremony and the opening ceremony was held respectively. The Company is arranging for the design of these commemorative plaques which will display the relevant EAG mascots and events, as well as the dates on which the events were held at that particular venue. This legacy project is estimated to cost about \$1M. We aim to complete the project by late June 2010 so that the payment can be effected before the Company winds up.

(ii) Donation to the Hong Kong Athletes Career and Education Programme and Hong Kong Athletes Fund

8. To further the spirit of the EAG and having regard to Clause 3(13) of the object of the MAA which states that the Company may “*subscribe or guarantee money for charitable/religious or educational objects, and to promote, contribute to or assist financially or otherwise any fund for any charitable purposes*”, we propose that the remaining surplus (around \$19M) should be used to benefit Hong Kong’s athletes directly. In this connection, two possible funds, both with the objective of helping Hong Kong’s serving and retired athletes to pursue excellence in their sports and to support their career and educational development, have been identified for the purpose of the donation. They are the Hong Kong Athletes Career and Education Programme (HKACEP) and the Hong Kong Athletes Fund (HKAF).

9. The HKACEP is operated by the SF&OC. Through supporting top athletes’ career and education development, the Programme aims to nurture well respected world class sports talents to be the role models of youth and to honour their sports achievements and dedication to Hong Kong’s sports success. The HKAF, operated by the Hong Kong Sports Institute Limited (HKSI), aims to provide grants for educational and other academic training to individual athletes to enable them to pursue excellence in their chosen sports and provide them with the opportunity to develop alternative careers upon retirement from sports. Information on the HKACEP and the HKAF is at Annex C and D respectively.

10. The donation of EAG surplus to either the HKACEP or HKAF or both will be a welcomed addition to the on-going efforts to support Hong Kong athletes’ career and education development, a major area of concern of the sports community. To highlight the outstanding achievements of Hong Kong’s athletes in the 5th EAG, we intend to explore with SF&OC and HKSI the possibility of setting up an EAG scholarship or a sub-fund under HKACEP

and/or HKAF so as to benefit the EAG medallists/athletes (including participants in future EAGs) more directly and to create an intangible but long-lasting legacy for the 5th EAG. We believe that this proposal will be welcomed by the sports sector and will most likely be supported by the Company's Board of Directors.

Alternatives considered

(i) Returning the donation to [sponsor's name has been deleted]

11. We have considered the suggestion of returning to *[sponsor's name has been deleted]* its donation of *[amount of sponsorship has been deleted]*. Although the *[amount of sponsorship has been deleted]* had been claimed and banked in by the Company, the *[sponsor's name has been deleted]* advised that there is no technical hurdle barring the return of the donation. However, we are concerned that the arrangement will attract queries or even criticisms from other EAG sponsors, in particular the *[sponsor's name has been deleted]* which is also a major sponsor of the EAG using its charity funds. They may ask for similar treatment so that they could redeploy the funding to other charitable purposes. In view of the read-across implications, we do not recommend this option. We also anticipate that the Company's Board of Directors (among them is *[sponsor's name has been deleted]*) will not support such proposal.

(ii) Returning the surplus to Government

12. According to the Tripartite Agreement for the 2009 EAG at Annex E (Clause 16), surplus fund from EAG, if any, up to the total amount of Government subsidy provided (\$123 million) and hiring charges waived, shall be returned to the Government. However, the meaning of "surplus" is not clearly defined and is subject to interpretation. If the Government subsidy has been used up in accordance with the Company's object as set out in its MAA and expressed as expenditure items in the Company's account, then only the net surplus upon the winding up of the Company and after settlement of all its debts and liabilities should be returned to the Government. As mentioned in paragraph 8 above and as confirmed by the Company's legal advisor, donating the EAG surplus to funds that will benefit athletes falls within Clause 3(13) of the MAA and could be a legitimate expenditure item.

(b) Disposal of office furniture and equipment

13. As regards the Company's office furniture and equipment, we have considered two options, namely, to dispose them through auction or to give them to LCSD. We do not recommend the auction route as the Company has to incur costs for auction and the items auctioned would unlikely attract good value. Instead, we recommend that they be given away to LCSD upon the winding up

of the Company. Not only will this save the Company's administrative cost (the expenditure will otherwise be donated to the athlete funds), the office furniture and equipment could also be put to good use by LCS D as it has to relocate its existing offices in the Hong Kong Park to the Company's office at the HK Squash Centre (HKSC) shortly (see paragraph 14).

14. The Company's office in the HKSC was converted from six squash courts. There is at present adequate supply of squash courts all over the territory. Utilization statistics and other relevant information revealed that the closure of the six squash courts in the past few years has not affected adversely the development of the sport. Moreover, about \$5M had been spent on converting the squash courts into office and the estimated cost for reinstatement obtained from ArchSD is in the region of \$5M. To require the Company to reinstate its office into squash courts will mean a \$5M reduction in the donation to the athlete funds. These factors, coupled with LCS D's genuine need for office space to accommodate the expanded Tree Teams and to relocate its HK Park Management Office currently housed in the Rawlinson House (a Grade 1 historic building in HK Park to be taken over by the Commissioner for Heritage), make the reinstatement of the office into squash courts unnecessary and unjustified. We have sought the views of Hong Kong Squash (the National Sports Association) on our intention not to reinstate the EAG office to squash courts. We do not expect strong objection from them as we have allowed them the continual use of 12 squash courts at the Cornwall Street Squash and Table Tennis Centre even after the return of the elite training base to the HKSI Fo Tan campus early this year.

Way Forward

15. Subject to your endorsement of the recommendations set out in paragraph 2 above, we will sound out FSTB informally on the proposed arrangements. Thereafter, we will assist the Company to seek the Board's approval of the recommendations in May 2010 so that the Company can proceed to appoint a liquidator for the winding up in June 2010.

DLCS
5.5.2010

***委員會秘書附註：附件並無在此隨附。**