

**立法會**  
*Legislative Council*

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**Finance Committee of the Legislative Council**

**Minutes of the 5<sup>th</sup> meeting**  
**held at the Conference Room 1 of the Legislative Council Complex**  
**on Friday, 2 December 2011, at 3:08 pm**

**Members present:**

Hon Emily LAU Wai-hing, JP (Chairman)  
Prof Hon Patrick LAU Sau-shing, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Dr Hon Margaret NG  
Hon CHEUNG Man-kwong  
Hon CHAN Kam-lam, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon LEUNG Yiu-chung  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Miriam LAU Kin-yee, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP

Hon Vincent FANG Kang, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, BBS, JP  
Hon CHAN Hak-kan  
Hon Paul CHAN Mo-po, MH, JP  
Hon CHAN Kin-por, JP  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Hon WONG Sing-chi  
Hon WONG Kwok-kin, BBS  
Hon IP Wai-ming, MH  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Dr Hon PAN Pey-chyou  
Hon Paul TSE Wai-chun, JP  
Dr Hon Samson TAM Wai-ho, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man

**Members absent:**

Hon Fred LI Wah-ming, SBS, JP  
Hon James TO Kun-sun  
Hon LI Fung-ying, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, JP  
Hon Tanya CHAN

**Public officers attending:**

Professor K C CHAN, SBS, JP	Secretary for Financial Services and the Treasury
Mr Stanley YING, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Alice LAU, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) <sup>1</sup>
Ms Elsie YUEN	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Miss Erica NG Lai-man	Principal Assistant Secretary for Transport and Housing (Transport) <sup>2</sup>
Mr Albert SU Yau-on	Principal Transport Officer (Management), Transport Department
Mr Herman CHAN Ng-lick	Chief Engineer (Project), Electrical and Mechanical Services Department
Mr LI Ying-ming	Chief Engineer (Airport and Vehicle Engineering), Electrical and Mechanical Services Department
Ms Doris HO Pui-ling, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) <sup>3</sup>
Mr Howard CHAN Wai-kee, JP	Deputy Director of Government Logistics
Mr Brian LEU Lap-yau	Government Counsel
Mr Kenneth CHEN, JP	Under Secretary for Education
Ms Michelle LI, JP	Deputy Secretary for Education
Mr Eric CHENG	Acting Principal Assistant Secretary for Education (Higher Education)
Miss Jenny YIP	Acting Secretary-General, University Grants Committee

**Clerk in attendance:**

Mrs Constance LI	Assistant Secretary General 1
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**Staff in attendance:**

Ms Annette LAM	Chief Council Secretary (1) <sup>7</sup>
Mr Daniel SIN	Senior Council Secretary (1) <sup>7</sup>

Mr Frankie WOO  
Ms Christy YAU

Senior Legislative Assistant (1)3  
Legislative Assistant (1)8

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**Item No. 1 - FCR(2011-12)52**

**CAPITAL WORKS RESERVE FUND  
HEAD 708 – CAPITAL SUBVENTIONS AND MAJOR SYSTEMS  
AND EQUIPMENT**

**Transport Department**

**New Subhead "Replacement of Tunnel Lighting System in the Aberdeen Tunnel"**

The Chairman advised that the item sought the Committee's approval of a new commitment of \$83 million to replace the existing tunnel lighting system in the Aberdeen Tunnel.

2. As members did not raise any question, the Chairman put the item to vote. The Committee approved the funding proposal.

**Item No. 2 - FCR(2011-12)53**

**HEAD 186 – TRANSPORT DEPARTMENT**

**Subhead 603 Plant, vehicles and equipment**

**New Item "Replacement of Specialised Vehicles Providing Towing Services for the Tsing Ma Control Area, North Lantau Highway and Penny's Bay"**

3. The Chairman advised that the item sought the Committee's approval of a new commitment of \$15.12 million to replace four specialized vehicles providing towing services for the Tsing Ma Control Area, North Lantau Highway and Penny's Bay.

4. Mr WONG Yuk-man referred to the press reports about Transport Department (TD) purchasing five medium and five heavy recovery vehicles in April 2009 at a cost of \$22 million. It was reported that the delivery of these vehicles was delayed until February/March 2011, and the cranes and front axles in some of the vehicles were defective. Frontline staff were not willing to operate these vehicles for safety reasons. Mr WONG asked if the funding sought was to be used to replace the defective vehicles. He also referred to the criticism from the Hong Kong Tunnel and Highway Employees' General Union

that TD did not consult frontline staff before purchasing new vehicles, many of which turned out to be not operable.

5. Principal Assistant Secretary for Transport (Transport)2 (PAS(T))2 said that delivery of some of the specialized vehicles was slightly delayed by the manufacturer due to the need to modify the vehicles to conform to new statutory environmental requirements consistent with European Union emission standards. Chief Engineer (Airport and Vehicle Engineering) (CE(A&VE)) supplemented that in accordance with the procurement contract, the relevant supplier had been penalized for the late delivery. He furthered that as these were specialized vehicles, certain features had to be tailored-made to meet TD's specifications. The Electrical and Mechanical Services Department (EMSD) would also conduct inspection and testing to ensure the vehicles were in order and any minor defects identified would be rectified before handing them over to the tunnel operators through TD. During testing and commissioning, EMSD had found that all five heavy recovery vehicles delivered were problem-free, whereas the front axles of five medium recovery vehicles were slightly overloaded. At the request of EMSD, the supplier had rectified the defects and all the recovery vehicles in question had been put into operation, and so far, no operating problems had been reported.

6. Principal Transport Officer (Management) (PTO(M)) advised that EMSD would draft the tender specifications for procurement of the specialized vehicles. The frontline tunnel staff would also be consulted through the contract tunnel operators before the tender specifications were finalized. Frontline tunnel staff would also be invited to test-operate the delivered vehicles, and their views were collected so that modifications could be made to the vehicles as necessary. PTO(M) said that there were sufficient communication with frontline staff throughout the process.

7. Mr WONG Yuk-man said the Administration should introduce effective measures to address the concerns of frontline staff. He criticized the Administration for concealing the information from staff.

8. Mr IP Kwok-him queried whether recovery vehicles commonly available in the market were already fitted with basic features such as hydraulic lifting boom or under lift, and why the tow vehicles proposed for purchase had to be specifically customized. He queried whether it was necessary to take some 24 months for delivery of the vehicles.

9. CE (A&VE) responded that the recovery vehicles were made to order and were not readily available in the market. Requirements such as loading capacity and physical dimensions had to be customized to fit the operating

environment of the tunnels. He added that after a purchase order was placed, a reasonable time was needed to allow the manufacturer to procure the vehicle chassis, construct the vehicle body and thoroughly test the vehicles before delivery. After delivery, local testing had to be conducted to further verify that the vehicles were in compliance with the specified requirements. In addition, vehicle operators had to be trained before the vehicles could be put into operation. Hence a 24-month procurement period, which included training of the vehicle operators, was considered reasonable.

10. There being no further questions from members, the Chairman put the item to vote. The Committee approved the funding proposal.

### **Item No. 3 - FCR(2011-12)54**

#### **WRITE-OFF OF A DEBT OWED TO THE GOVERNMENT BY A CONTRACT AUCTIONEER**

11. The Chairman advised that the item sought the Committee's approval to write off an irrecoverable debt of \$17,025,082.44 owed to the Government by an auctioneer hired by the former Government Supplies Department (GSD) for disposal of unserviceable or obsolete government stores and confiscated goods.

12. Mr CHAN Kam-lam reported that the Panel on Financial Affairs discussed the issue at its meeting held on 7 November 2011. Panel members noted the Administration's efforts in trying to recover the debt and the difficulties involved. The Panel accepted the Administration's write-off proposal.

13. Mr WONG Kwok-hing said he objected to the proposal. He expressed strong dissatisfaction that the Government contract auctioneer, the Hong Kong Auctioneers and Estate Agency Ltd. (HKAEAL), had defaulted \$17 million for 15 years and the Administration had failed to recover the debt. He asked how the Administration intended to account for the matter to the public.

14. Deputy Secretary for Financial Services and the Treasury (Treasury)3 (DS(Tsy)3) clarified that the item sought the Finance Committee's (FC) approval to write-off a debt and it was not a funding application. She said that as soon as the default payment was discovered in 1998-99, the Administration had taken active steps to recover the debt, including concluding with the HKAEAL Managing Director a Deed of Settlement with a schedule of full settlement of the outstanding payment. The Managing Director made personal guarantee to settle the debt. By the Deed, the Administration recovered \$6

million from the Managing Director, and reduced the outstanding debt down to about \$10 million. However, no further payment had been received thereafter. HKAEAL had since liquidated and the Managing Director left Hong Kong in 2000. The Administration could not petition for bankruptcy against the Managing Director until his return in 2007. By September 2011, the Managing Director was discharged from bankruptcy, which released him from all bankruptcy debts. The Administration had exhausted all possible legal means to recover the debt and considered it irrecoverable.

15. The Chairman and Mr CHAN Kin-por asked about the consequence if FC did not approve the Administration's proposal. DS(Tsy)3 advised that FC's approval was required for the write-off in accordance with section 38 of the Public Finance Ordinance, Cap. 2 (PFO), for losses of public moneys, stores, etc., involving fraud or negligence. It was an accounting arrangement rather than a need for cash outlay as in other capital projects. If FC did not approve the write-off, the debt would remain in the Government's books, but the debt could still not be recovered. Mr WONG Kwok-hing commented that even so, the bad debt should be left in the Government's books as a reminder of the fault the Administration had allowed itself to make, and the embarrassment the case had caused.

16. Mr WONG Yuk-man said that he objected to the write-off proposal. Noting that between 1996 and 1998, HKAEAL had conducted 58 auctions for the Government and had only reimbursed the Government the proceeds from the first 43 auctions, he found it inconceivable that the Administration still commended HKAEAL's performance as "satisfactory" despite the fact that it had delayed payment to the Administration and finally defaulted auction proceeds in so many instances. Mr WONG commented that the Administration should have implemented the remedial measures as outlined in the paper from the beginning. The Administration should also not award contracts to HKAEAL given the company's poor track records and dubious financial position. He asked the Administration to provide detailed information on whether the 43 reimbursements were made on time, and for the remaining 15 cases, details of the amounts involved, as well as responsible officials in each case.

17. Ms Audrey EU asked if the Administration had a mechanism of making reference to a contractor's previous records in awarding further contracts. She was concerned that the loophole in the system should be plugged.

18. DS(Tsy)3 responded that while past performance record was a factor to consider in awarding a contract, the then GSD decided to award new contract

to HKAEAL as it had hitherto managed to reimburse the Government all the auction proceeds, despite some delays in payments. Furthermore, GSD had limited choice for alternative auctioneers besides HKAEAL. To ensure the contractor would reimburse auction proceeds on time, the Administration had imposed penalty clauses for late payments in the 1996 contract.

19. Mr WONG Yuk-man said that while the payment default case was first discovered in 1996, it was not reported to Independent Commission Against Corruption (ICAC) for investigation until 2001, and to the Panel on Financial Affairs in 2005 for advice on whether to refer the case to the Police for criminal investigation. Mr WONG criticized that the Administration was trying to cover up its fault hoping that the problem would solve itself in the end when the debtor settled the payment with the Government eventually. He said the Deed of Settlement concluded in 1999 might have affected the police investigation which concluded that the case did not involve criminal element.

20. Mr LEUNG Kwok-hung noted that the Court had already ordered in November 1999 that judgment be entered for the Government against the contractor and its Managing Director and that they should pay the Government the defaulted sum plus interest. He queried why it took so long for the Department of Justice (DoJ) to apply for a winding-up order against HKAEAL, as the delay had provided a time window for the Managing Director to leave Hong Kong, making further recovery difficult.

21. DS(Tsy)3 explained that following the Court order in November 1999, the contractor and the Managing Director was allowed a period of time to settle the debt to the Government. By early 2000, it was apparent that neither the contractor nor the Managing Director had shown intention or ability to repay. DoJ then immediately took legal action against HKAEAL and the Managing Director, and there was no delay in taking such action.

22. Ms Audrey EU queried the high cost of \$244,000 on legal litigation and bankruptcy proceeding costs for the current case which was straight forward. Ms EU sought clarification on whether the cost represented the staff cost of DoJ and the notoriously high fees charged by the Official Receiver's Office (ORO), or whether it was the legal cost of engaging outside law firm to handle litigation matters. She also asked whether the interest of \$6 million was calculated on the basis of a judgment debt as declared by the Court.

23. DS(Tsy)3 advised that the costs included a combination of DoJ staff cost, OR's fees as well as the cost of engaging outside counsel. Government Counsel (GC) added that a barrister was engaged to provide legal advice on recovery of default payment. In 2007, when HKAEAL's Managing Director

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returned to Hong Kong, and an oral examination was conducted, the Court awarded half of the cost to the Government. DS(Tsy)<sup>3</sup> further explained that before it was declared as a judgment debt in 1999, the interest in respect of the debt was calculated at one percent point above the prime rate. On 5 September 2007, when the Bankruptcy Order was issued against HKAEAL's Managing Director, the interest was then calculated on the basis of judgment rate and for six years preceding the date of Bankruptcy Order.

24. Ms Cyd HO said that she objected to proposal. She said that Mrs Regina IP had once mentioned that the Chief Executive's Office (CE's Office) had a "hidden" fund for policy research and contingency allocation. She suggested that the debt should be offset as an expenditure of CE's Office rather than being written off.

25. Permanent Secretary for Financial Services and the Treasury (PS(Tsy)) said that the amount of resources allocated annually to bureaux and departments, including the CE's Office, was presented in the Estimates of Expenditure. He was not aware of any hidden funding kept by the CE's Office. He said that whichever means the debt was to be offset would not alter the fact that the amount of public money was lost and could not be recovered.

26. Mrs Sophie LEUNG commented that as the debt was irrecoverable and the concerned officer had been punished under established practice, there was no option other than writing off the debt, otherwise the debt would remain in the Government's books. While she agreed to the Administration's approach on the way forward as set out in paragraph 8 of the paper, Mrs LEUNG said that the Administration should review the current procedure to identify the reasons for having taken so long to discover the default in payment.

27. Ms Starry LEE said that from accounting point of view, irrecoverable debt should be written-off. She considered that the Administration should have done better to recover the debt. She said that the public was not content with having to write-off more than \$17 million of public money. The loopholes in the system should be plugged to prevent similar situations from happening again. Ms LEE asked if there were still other alternative ways to recover the debt.

28. PS(Tsy) responded that the Administration shared members' frustration over the write-off. The Administration had been keeping the Panel on Financial Affairs informed of the case in past years, and in 2008 had proposed to write-off the claim. On that occasion the Panel had urged the Administration to make further attempts to recover the debt. However, there was really nothing the Administration could do to recover the debt, now that the

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the Managing Director had been discharged from bankruptcy in September 2011 and released from all bankruptcy debts; and write-off was the only option. Government Counsel confirmed that there was no further legal avenue to recover the debt as the Bankruptcy Order against the Managing Director had expired.

29. Ms Starry LEE asked about the number of write-off cases which had been brought to FC for approval so far. DS(Tsy)3 said that FC's approval was required for write-off of losses of public money exceeding \$500,000 which involved fraud or negligence. The current item was the first case brought to FC.

30. Dr PAN Pey-chyou expressed dissatisfaction about writing-off a large amount of public money. He asked whether there were other outstanding debts that would have to be written-off. He suggested that the Administration should be proactive in investigating any outstanding bad debts, and report the findings to members. DS(Tsy)3 advised that write-off of irrecoverable debts was initiated at departmental level, and the Financial Services and the Treasury Bureau (FSTB) did not have information of all outstanding debts requesting write-offs. PS(Tsy) supplemented that the Administration was prudent in handling public finance and there were strict guidelines and accounting procedures for handling write-offs in departments. The Treasury assisted FSTB in monitoring and Accounting Officers were posted to various departments to ensure compliance of the accounting procedures. Departments' accounts were also subject to regular scrutiny by the Audit Commission. The issue of bad debts was being monitored and handled on an on-going basis by departments.

31. The Chairman and Dr Philip WONG asked if the Administration would write-off the advances paid for the United Nations High Commissioner for Refugees (UNHCR), as the amount had remained outstanding for many years. PS(Tsy) replied that in general, apart from the accounting perspective, whether write-off of an outstanding debt was necessary involved various considerations. In the case in question, it would be for the Security Bureau to advise on the latest state of play. The Chairman requested the Administration to provide a paper on the present position and whether the Administration would consider writing off the advances.

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32. Dr Philip WONG asked how long the Administration would take before seeking FC's approval for write-offs. DS(Tsy)3 said that FC's approval would be required for cases that exceeded \$500,000, and which involved fraud or negligence. While there was no statutory time limit, it was the

Administration's intention to bring such cases to FC for approval as early as possible.

33. Mr WONG Yuk-man said that the present case reflected badly on the Administration. He asked the Administration to provide information on write-off cases less than \$500,000 involving fraud or negligence in the past two years.

34. DS(Tsy)3 replied that the Administration had provided the information to the Panel of Financial Affairs. In 2009-10, there were 26 cases involving \$300,000 and in 2010-11, 15 cases involving \$150,000 were recorded. There were also minor write-off cases which did not involve fraud or negligence such as irrecoverable water charges or exemption of medical fees for recipients of Comprehensive Social Security Allowance.

35. Mr Alan LEONG asked about the basis for setting a threshold of \$500,000 for FS to write off losses of public moneys in cases involving fraud or negligence under section 38 of PFO. DS(Tsy)3 advised that FC delegated the authority to FS at the meeting on 19 July 1989 to authorize write-off up to \$500,000. PS(Tsy) added that the current threshold was considered appropriate so that departments would remain vigilant in handling public moneys. Unlike some other financial limits delegated by FC (such as the cost ceiling for minor works projects funded under block allocations) which had been subject to review in the past, the threshold for write-off cases involving fraud or negligence had remained at \$500,000 since July 1989.

36. Mr Alan LEONG said that he was not seeking to raise the ceiling. As the delegation of the authority to FS to write off losses of public moneys was made more than 20 years ago, Mr LEONG suggested that FC should discuss whether the conditions associated with the delegated power should be revised. He also sought information on the number of write-offs made under delegated authority.

37. The Chairman requested the Secretariat to compile information with input from the Administration on the background leading to the delegation of authority to FS to write off losses of public moneys up to \$500,000.

#### Improvements to the auction service contract

38. Mr WONG Kwok-hing and Prof Patrick LAU asked about the measures the Administration would introduce to plug the loophole in the system to prevent further similar default of payment in future.

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39. DS(Tsy)3 said that the Treasury Branch of the Financial Services and the Treasury Bureau had reviewed the contract terms with ICAC and the Treasury, and improvements had been introduced. For the auction service contract commencing September 1998, auctioneers would have to advise the Government of the gross auction proceeds, within one working day of an auction, based on which demand notes would immediately be issued to the auctioneer for the gross proceeds. Demand notes outstanding by the due dates would be reported to the senior management without delay. For the two-year contract commencing September 2000, auctioneers were required to pay, on the auction day, half of gross auction proceeds into a designated bank account in trust of the Government solely for handling auction proceeds. The balance should be deposited to the Government's account on the following day. Since November 2002, auctioneers were hired to provide the professional service of conducting the auction only, while the Government Logistic Department (GLD) would collect auction proceeds directly from successful bidders.

40. Prof Patrick LAU said that the present case revealed a contract management problem. In this connection, he referred to the Housing Authority's (HA) Tender Committee, of which he was Chairman that improvement had been made to HA's tendering procedure following the exposure of substandard piling works in some public housing projects. He asked whether the Administration would appoint non-official members, such as LegCo Members, to the Central Tender Board to monitor the vetting of tenders and to advise on the tendering procedures.

41. PS(Tsy) advised that it was the Administration's duty to handle its procurement. The crucial point was whether there were sufficient checks and balances. There was a well-established mechanism for tendering out public service contracts, with built-in checks and balances. Part of such checks and balances was the Central Tender Board, which comprised civil servants from the Treasury Branch, and officers/legal advisers who were familiar with the tendering procedures. In addition, there were a set of guidelines and detailed procedures. On the other hand, HA was different from the Government. For one thing, unlike the Government, the Authority itself comprised mostly of non-officials, and its Tender Committee naturally comprised non-officials.

Disciplinary action against officials responsible for the loss of moneys

42. Mr WONG Kwok-hing asked whether any officials were held responsible in the present case. DS(Tsy)3 explained that an internal inquiry had been conducted to identify the responsibility of officials involved and investigate into the existing procedure. The inquiry report was submitted to the Civil Service Bureau (CSB) and the Public Service Commission. A

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number of officers were found to be involved in the case, and a Senior Accounting Officer was considered primarily responsible for failing to monitor the receipt of auction proceeds from HKAEAL and appraise the senior management of the late payment situation in accordance with prevailing government regulations. The officer was given severe reprimand, a fine and a caution of removal from the service in the event of further misconduct.

43. Ms Cyd HO expressed dissatisfaction over the Administration's lenient approach in handling loss of public moneys, and the penalty imposed on a civil servant for loss of \$17 million was too mild. Referring to the Director of Audit's criticism on the loss of some \$160 million in water charges due to unauthorized consumption and inaccurate metering, she remarked that the Director of Water Supplies had said that saving public revenue was not his priority.

44. DS(Tsy)3 responded that disciplinary sanctions against misconduct of a civil servant were imposed in accordance with the established mechanism. CSB had advised that the penalties usually imposed in cases of similar nature included reprimand, severe reprimand, fine or caution. The punishment imposed on the Senior Accounting Officer in the present case was compatible with the established practice.

45. Noting that five other civil servants had failed to take proper action in recovering outstanding payment from HKAEAL, Mr LEUNG Yiu-chung asked why the Senior Accounting Officer was singled out for punishment. He commented that senior management staff in GSD could not evade responsibilities for having allowed the problem to drag on for more than ten years. He stressed that the supervisors and the management had a duty to take active steps to monitor recovery of any outstanding payment.

46. DS(Tsy)3 responded that while it was not appropriate to discuss details of individual disciplinary case, the Senior Accounting Officer concerned had not taken timely action on repeated occasions when a payment was in arrear, and had failed to alert his supervisor at the earliest opportunity to take remedial action. By the time the senior management of GSD was aware of the gravity of the situation, the contract had already been expired. Upon inquiry into the responsibilities of all parties involved, GSD concluded that the case involved faults on the part of the concerned officer in contract management, but it did not reveal negligence or incompetence at senior management level.

47. Noting that between 1996 and 1998, HKAEAL had defaulted payment in 15 out of 58 auctions conducted under contract, Mr LEUNG Kwok-hung queried whether all the default cases happened after 1997, and

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whether a mechanism was in place to trigger internal investigation once the outstanding payments reached a certain amount. Mr LEUNG queried how the GSD management could tolerate such defaults of payment for as many as 15 times.

48. DS(Tsy)3 confirmed that all the 15 default payment cases happened after 1997. The Senior Accounting Officer concerned was found to be negligent in failing to comply with departmental instructions to report problems with payment recovery, and disciplinary proceeding had been taken against him.

49. Mr WONG Kwok-hing asked which official had the final authority in the design and revision of auction service contracts. He said that the default case revealed flaws in the contract design. Mr WONG criticized the Administration for failing to review critically the contractual arrangements and take remedial measures afterwards. PS(Tsy) responded that it was not fair to put the blame on the then Director of Government Supplies. The terms of the auction service contract had been in use for many years before the then Director had become Director. On the question on what had led to the problem and who should be held responsible for it, conclusions had been reached at that time through the established disciplinary proceedings. These proceedings had been undertaken in accordance with the Public Service (Administration) Order to identify the misconduct involved, the officers who were responsible and the level of punishment to be imposed. During the process, CSB and the Public Service Commission had been consulted as appropriate. While there could be room for improving the contract terms, the findings then had been that the Senior Accounting Officer concerned had clear responsibility to oversee the reimbursement of the proceeds from auctions carried out by HKAEAL on behalf of the Government. This officer was primarily responsible to recover any default payment, and to report any anomaly to his supervisors. Had the concerned officer carried out his duty properly, the situation would have been different.

50. Mr CHAN Kin-por said that the FA Panel had discussed the case several times and he agreed that the debt should be written-off. He commented the penalties and sanctions on the concerned officers were too lenient, and did not have much deterrent effect. He said that an employee in the private sector would be dismissed for incurring such a big loss to a company.

51. DS(Tsy)3 said that as the human resources management of the Government and the private sector was different, it might not be appropriate to compare the two systems. The level of sanctions applied in the current case was considered appropriate and comparable to those imposed on previous cases.

In the present case, the Senior Accounting Officer concerned had been severely reprimanded, fined, and cautioned. She stressed that the punishment was heavy as he would practically be barred from promotion for the next three to five years.

52. As members did not raise any further questions, the Chairman put the matter to vote. At the request of Mr LEUNG Yiu-chung, the Chairman ordered a division. A total of 24 members voted for the item, and seven voted against. The detailed voting results of individual members were as follows:

*For:*

Mr Albert HO Chun-yan	Dr Margaret NG
Mr CHEUNG Man-kwong	Mr CHAN Kam-lam
Mrs Sophie LEUNG LAU Yau-fun	Dr Philip WONG Yu-hong
Mr WONG Yung-kan	Mr Timothy FOK Tsun-ting
Mr TAM Yiu-chung	Mr Tommy CHEUNG Yu-yan
Ms Audrey EU Yuet-mee	Mr WONG Ting-kwong
Mr Ronny TONG Ka-wah	Prof Patrick LAU Sau-shing
Mr KAM Nai-wai	Ms Starry LEE Wai-king
Mr CHAN Hak-kan	Mr Paul CHAN Mo-po
Mr CHAN Kin-por	Mr WONG Sing-chi
Mr IP Kwok-him	Mrs Regina IP LAU Suk-yee
Dr Samson TAM Wai-ho	Mr Alan LEONG Kah-kit

(24 members)

*Against:*

Mr LEUNG Yiu-chung	Mr WONG Kwok-hing
Ms Cyd HO Sau-lan	Mr CHEUNG Kwok-che
Mr IP Wai-ming	Mr Paul TSE Wai-chun
Mr WONG Yuk-man	

(7 members)

53. The Chairman declared that the Committee approved the item.

**Item No. 4 - FCR(2011-12)55**

**HEAD 190 – UNIVERSITY GRANTS COMMITTEE**

**Subhead 000 Operational expenses**

**HEAD 156 – GOVERNMENT SECRETARIAT:**

**EDUCATION BUREAU**

**Subhead 700 General non-recurrent**

**New Item "Injection into the Research Endowment Fund"**

54. The Chairman advised that the item sought the Committee's acceptance of the total recurrent grant for the University Grants Committee-funded institutions for the 2012/13 to 2014/15 triennium, estimated at \$42,208.9 million. The item also sought the Committee's approval of a new commitment of \$5 billion for injection into the Research Endowment Fund for providing research funding to the higher education sector.

55. Ms Starry LEE, Chairman of the Panel on Education, reported that the Panel discussed the proposal at its meeting on 14 November 2011. Panel members expressed concern that the Administration would raise university tuition fees following the review of the cost recovery ratio. There were concerns that further increase in tuition fees would increase burden on students with financial difficulties. Some members objected to the inclusion on non-recurrent funding allocation among the factors for evaluating the level of tuition fees, as such methodology was unfair to students. Panel members requested the Administration to withdraw the part in the paper concerning university fee adjustment. Ms LEE reported that Panel members present at the meeting voted against recommending the item to FC for funding approval.

56. Under Secretary for Education said that the proposal sought the Committee's acceptance of funding allocation for the next triennium and approval for injection into the Research Endowment Fund, and the paper had not touched on the issue of tuition fee review. As the new four-year normative curriculum would commence in the coming academic year, it was essential that institutions funded by the University Grants Committee should be allocated the resources at the earliest opportunity to facilitate academic planning in anticipation of the new academic structure.

57. The Chairman said that as the meeting was approaching the appointed end time of 5:00 pm, she sought members' views whether she should exercise the power to extend the meeting for 15 minutes. Members were generally of the view that as there would be a lot of debate on the proposal, discussion on the item should continue at the next meeting.

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58. The Chairman declared that discussion on the item would resume at the next meeting to be held on 9 December 2011.

59. The meeting was adjourned at 4:58 pm.

Legislative Council Secretariat

7 May 2012