

Your Ref. : CB4/PAC/R68
Our Ref. : FEHD H&M-H 33-70/5/3C

26 May 2017

Mr Anthony CHU
Clerk to the Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

**Public Accounts Committee
Consideration of Chapter 2 of the
Director of Audit's Report No.68
Monitoring of Charitable Fund-raising Activities**

Thank you for your letters dated 17 and 18 May 2017. Our reply is as follows.

Under the framework of the Public Health and Municipal Services Ordinance, the main purpose for the Food and Environmental Hygiene Department ("FEHD") to issue temporary hawker licences ("THLs") is to regulate the sale of commodities in public places in a hygienic manner as well as to ensure that the hawking activities will not cause nuisances such as obstruction. The license conditions of THLs (Fund-raising Sale Activity) stipulate that the licence is issued to the licensee to raise funds through the on-street sale of commodities where a customer is paying the seller money in exchange for an actual commodity. We opine that such transactions should be distinguished from charitable fund-raising activities which do not involve any benefit in return. In fact, the THLs issued to charitable organisations in the past three years only accounted for about 30% to 40% of the total THLs issued by FEHD. The rest of the THLs, comprising over half of the total, were issued to non-tax-exempted non-profit-making institutions or organisations for raising funds for non-charitable purposes through the on-street sale of commodities at a specific location and time.

Nonetheless, we acknowledge the public's views for better transparency and accountability for fund-raising activities for charitable purpose, including those involving on-street sale of commodities. In this connection, we introduced new administrative measures in 2012 (see paragraph 5.5 of the Audit Report for details). Since the Law Reform Commission ("LRC") published its report in December 2013, FEHD has been participating in the inter-departmental meetings coordinated by the Home Affairs Bureau ("HAB") and working with the other departments which also issue licences/permits to charitable fund-raising activities (i.e. the Home Affairs Department and the Social Welfare Department ("SWD")) to explore the feasibility of formulating short-term administrative measures with a view to enhancing the transparency and accountability of charitable fund-raising activities. In addition, the inter-departmental meetings also study the applicability of the Reference Guide on Best Practices for Charitable Fund-raising Activities ("the Reference Guide") promulgated by SWD to different fund-raising activities. We will continue to participate in the related discussion. In light of the recommendations of LRC and those in the Audit Report, we will consider further enhancing, as far as practicable and legally viable, the transparency and accountability of issuing THLs to charitable organisations. In considering the recommendations, we will make reference to the best practices specified in the Reference Guide promulgated by SWD while having due regard to factors such as the nature, scale and duration of the fund-raising activities, proportionality of the requirements, and cost of compliance, etc. In this connection, we plan to, from December this year, impose a new licencing condition which require licensees to display notices/ banners to state the purpose of fund-raising, and to implement an administrative measure which requires the applicants concerned to provide secure and sealed boxes for collecting and safekeeping of the funds raised from the sale activity properly.

Regarding paragraphs 2.19 (a)(i), (ii) and (iv) and 2.22 of the Audit Report, on promoting the best practices for charitable fund-raising activities as well as the one-stop finder service on charitable fund-raising activities ("one-stop finder") on the government portal "GovHK", FEHD will continue to participate in the inter-departmental discussion coordinated by HAB on issues relating to on-street hawking activities, and will complement and assist with the promotion and publicity

work of the webpage. At the same time, we are considering to revise the application form and notice to applicants (including the online version) regarding THLs (Fund-raising Sale Activity) this year to make it clear to applicants that in order to organise on-street fund-raising activities through the sale of commodities, applicants should, apart from applying for a THL, make reference to the relevant guidance under the Reference Guide and ensure that the requirements imposed under the legislation administered by other government departments in relation to the activity concerned are observed.

As regards the recommendation (in paragraph 2.17 of the Audit Report) of incorporating financial information submitted by the holders or licensees of public subscription permits, lottery licences or THLs in the one-stop finder, measures to safeguard the right to know of the public are being explored at the inter-departmental meetings coordinated by HAB, with due regard to the administrative considerations including resource deployment, the coordination of relevant licensing conditions and the potential legal implications of the disclosure of further information of charitable fund-raising activities.

For the recommendation in paragraph 2.19 (a)(iii) of the Audit Report, FEHD is unable to provide guidance on other forms of fund-raising activities as we only issue THLs to fund-raising activities which involve the on-street sale of commodities.

As regards the recommendation in paragraph 3.27 of the Audit Report, we stand ready to explore with SWD and the Lands Department means to enhance communication among departments and the feasibility of sharing of enforcement information and taking concerted actions on repeated “no-show” cases.

Yours sincerely,



(Sian LI)

for Director of Food and Environmental Hygiene

c.c. Secretary for Home Affairs
Director of Social Welfare
Director of Home Affairs
Director of Lands
Secretary for Financial Services and the Treasury
Director of Audi